

EXHIBIT 12

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON MDL NO.:
TALCUM POWDER PRODUCTS 16-2738 (FLW)(LGH)
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

VALERIE SWANN, et al.,

Plaintiffs,

v. Cause No.

JOHNSON & JOHNSON, et al., 1422-CC09326-03

Defendants. Division 10

EXPERT DEPOSITION OF

LAURA M. PLUNKETT, PHD, DABT

Tuesday, August 10, 2021, 9:07 a.m.

Washington, DC 20006

Reported by:

Denise Dobner Vickery, Registered Merit Reporter,
Certified Realtime Reporter, Notary Public

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 2	Page 4
1	APPEARANCES: (Continued)
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10 Expert Deposition of LAURA M. PLUNKETT,	
11 PHD, DABT, held at the offices of:	
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20 Pursuant to notice, before Denise Dobner	
21 Vickery, Certified Realtime Reporter, Registered	
22 Merit Reporter, and Notary Public in and for the	
23 District of Columbia.	
24	
Page 3	Page 5
1 APPEARANCES:	1 INDEX
2	2 EXAMINATION OF
3 For MDL Plaintiffs and Plaintiff Valerie Swann:	3 LAURA M. PLUNKETT, PHD, DABT PAGE
4 ASHCRAFT & GEREL LLP	4 BY MR. HEGARTY 10
5 BY: MICHELLE A. PARFITT, ESQ.	5
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8 Washington, DC 20006	8 PLUNKETT DEPOSITION EXHIBITS
9 202.759.7648	9 NUMBER DESCRIPTION PAGE
10 mparfitt@ashcraftlaw.com	10 Exhibit 1 Integrative Biostrategies, LLC 25
11 jgreen@ashcraftlaw.com	11 Talc MDL Invoices period ending
12	12 30 November 2018 Invoice Number 1519
13	13 Exhibit 2 Integrative Biostrategies, LLC 27
14 For MDL Plaintiffs and Plaintiff Valerie Swann:	14 Talc MDL Invoices period ending 30
15 BEASLEY ALLEN LAW FIRM	15 September 2019 Invoice Number 1606
16 BY: RYAN BEATTIE, ESQ.	16 Exhibit 3 List of Testimony for 45
17 218 Commerce Street	17 Dr. Laura M. Plunkett, PHD, DABT
18 PO Box 4160	18 Last Updated August 2, 2021
19 Montgomery, AL 36104	19 Exhibit 4 Curriculum Vitae 49
20 308.874.3186	20 Exhibit 5 PowerPoint. Laura M. Plunkett, 67
21 ryan.beattie@beasleyallen.com	21 PHD, DABT
22	22 Exhibit 6 Amended Expert Report of 84
23	23 Laura M. Plunkett, PHD, DABT
24	24 Dated June 30, 2021

2 (Pages 2 to 5)

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 6			Page 8		
PLUNKETT DEPOSITION EXHIBITS			PLUNKETT DEPOSITION EXHIBITS		
NUMBER DESCRIPTION PAGE			NUMBER DESCRIPTION PAGE		
Exhibit 7 Rule 26 Expert Report of Laura M. Plunkett, PHD, DABT Dated November 16, 2018			Exhibit 20 Amended Notice of Oral Deposition of Laura M. Plunkett, PHD, DABT and Duces Tecum in Swann		
Exhibit 8 Supplemental Expert Report of Laura M. Plunkett, PHD, DABT August 29, 2018			Exhibit 21 Letter dated August 6, 2021 from Parfitt to Sharko		
Exhibit 9 Responsive Materials for NOD of Laura M. Plunkett - 8.10.2021			Exhibit 22 Plaintiff's Amended Disclosure of Expert Witnesses in Swann		
Exhibit 10 Dropbox - Responsive Materials for NOD of Laura Plunkett - 8.10.2021			Exhibit 23 Review. The Secondary Mullerian System Revisited, Lauchlan		
Exhibit 11 Laura M. Plunkett, PHD, DABT Additional Materials Considered, August 1-10, 2021			Exhibit 24 Gynecologic Oncology. Analytic Comparison of talc in commercially Available baby powder and in pelvic Tissues resected from ovarian Carcinoma patients, Johnson et al.		
Exhibit 12 The Lack of an Ovarian Effect of Lifetime Talc Exposure in F344/N Rats and B6C3F1 Mice Boorman and Seely			Exhibit 25 Environmental Research. The effect of talc particles on phagocytes in co-culture with ovarian cancer cells, Mandarino et al.		
Exhibit 13 Screening Assessment Talc Environment and Climate Change Canada, Health Canada, April 2021			Exhibit 26 Molecular Basis Supporting the Association of Talcum Powder Use With Increased Risk of Ovarian Cancer, Fletcher et al.		
Page 7			Page 9		
PLUNKETT DEPOSITION EXHIBITS			PLUNKETT DEPOSITION EXHIBITS		
NUMBER DESCRIPTION PAGE			NUMBER DESCRIPTION PAGE		
Exhibit 14 Final Report on Carcinogens Background Document for Silica, Crystalline (Respirable Size), December 2-3, 1998, NTP Board of Scientific Counselors			Exhibit 27 Research report. Perineal use of Talc and risk of ovarian cancer, Langseth et al.		
Exhibit 16 Use of Powder in the Genital Area And Ovarian Cancer Risk. Examining The Evidence, Editorial, Gossett And del Carmen, JAMA January 7, 2020					
Exhibit 17 Reproductive Toxicology. Critical Review of the association between Perineal use of talc powder and Risk of ovarian cancer, Taher et al.					
Exhibit 18 Johnson & Johnson Consumer Health Announces Discontinuation of Talc-based Johnson's Baby Powder in U.S. and Canada, May 19, 2020					
Exhibit 19 Amended Notice of Oral Deposition of Laura M. Plunkett, PHD, DABT and Duces Tecum in MDL					

3 (Pages 6 to 9)

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 10	Page 12
<p>1 PROCEEDINGS 2 --- 3 LAURA M. PLUNKETT, PHD, DABT 4 called for examination, and, after having been 5 duly sworn, was examined and testified as 6 follows: 7 --- 8 EXAMINATION 9 --- 10 BY MR. HEGARTY: 11 Q. Good morning, Dr. Plunkett. 12 A. Good morning. 13 Q. Would you please state your full 14 name for the record? 15 A. Laura Massey Plunkett. 16 Q. Dr. Plunkett, we're here today to 17 take your deposition in the MDL litigation. 18 Do you understand that? 19 A. Yes. 20 Q. Do you also understand we're here 21 today to take your deposition in the case of Swann 22 versus Johnson & Johnson, et al.? 23 A. I understand that, yes. 24 Q. Did you bring any materials with you</p>	<p>1 Q. Thank you. 2 What is the current name of your 3 consulting business? 4 A. BioPolicy Solutions, Inc. I'm 5 sorry. LLC. 6 Q. Your consulting business was 7 formerly known as Integrated Biostrategies; is 8 that correct? 9 A. Integrative Biostrategies, yes. 10 Q. Why the name change? 11 A. That business is closed because I 12 took on a full-time business partner. So we now 13 have a different structure to the company. It's a 14 partnership versus before I was the sole owner of 15 the company. 16 Q. The person that you have now entered 17 into business with is Larisa Rudenko? 18 A. Larisa Rudenko, yes. 19 Q. How did you come to start working 20 with her? 21 A. So this time or how far back in 22 time? 23 Q. Well, with regard to your new 24 company, BioPolicy Solutions.</p>
<p>1 to the deposition? 2 A. The only thing I brought was this 3 notebook which has my report. Do you -- I brought 4 this notebook, to answer your question. I'm 5 sorry. (Laugh). 6 Q. There are some materials to your 7 right. 8 Are those counsel's materials? 9 A. Yes. 10 Q. Okay. What is your business 11 address? 12 A. 1127 Eldridge, E-l-d-r-i-d-g-e, 13 Parkway, Suite 300-335, Houston, Texas 77077. 14 Q. You testified in the past that your 15 office was in your home, but this sounds like it's 16 an address that's actually in an office building. 17 Is that correct? 18 A. No. I have a home-based office 19 that's my mailing address. 20 Q. Okay. 21 A. So all materials -- so if you ask 22 me -- if you ask me where to send something to me 23 in my -- in my office, you would send it to that 24 mailing address.</p>	<p>1 A. Okay. So in December of 2019, 2 January of 2020, she contacted me and she had just 3 finished -- she had finished a sabbatical at MIT 4 and had recently retired from FDA two years prior, 5 and she had reached the time period where she 6 could now -- based on her tenure at FDA having 7 ended more than two years, she could now start to 8 consult back with the industry that she regulated 9 when she was at FDA. 10 So she wanted to -- she wanted to 11 know if I was interested in working again. We had 12 been partners on Integrative Biostrategies 13 initially. She's the one who actually started 14 Integrative Biostrategies back in 2001. 15 Q. What is her area of expertise? 16 A. Similar to mine. She's a 17 board-certified toxicologist. She has a PhD in -- 18 whereas mine is in pharmacology, hers is in 19 molecular biochemistry. And the difference in 20 what we do is not that great, other than her 21 contacts and her -- her clients that she has 22 brought to the company are companies that 23 specialize in making products through different 24 processes of biotechnology.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 14	Page 16
<p>1 At FDA, she was a policy person 2 working on the issues of new policy and new 3 initiatives under products of biotechnology, and 4 she was based jointly out of the Center for 5 Veterinary Medicine and she also had a position 6 that was through the commissioner's office as 7 well.</p> <p>8 Q. You anticipated. One of my 9 questions was with regard to what your consulting 10 company does.</p> <p>11 Your report called what you did 12 before as product development stewardship, that 13 is, you one of your prior reports, and now you 14 describe it as development and marketing of 15 existing products as well as new technologies.</p> <p>16 So is there a difference in what 17 your company is doing now, what you're doing now 18 than what you did at the time you did your initial 19 MDL report back in 2018?</p> <p>20 A. Not -- not really, other than the 21 majority of the new clients are what I call new 22 technologies, whereas before the majority of my 23 clients were in the areas that were not this area 24 of new technologies.</p>	<p>1 work for Johnson & Johnson? 2 A. At ENVIRON, she very likely worked, 3 like I did, on a project for Johnson & Johnson 4 because I believe we were working together 5 generally in that area, but I don't know since 6 then. I can't answer that. So, no. 7 Q. Has she ever been involved in 8 litigation work, to your knowledge? 9 A. In the past, yes. 10 Q. What type of work do you know of 11 that she's been involved in the past in a general 12 sense? 13 A. Just in general sense? I know she 14 worked on some issues -- has worked on some issues 15 related to safety of biotechnology. 16 Q. Has she helped you with any of your 17 litigation work? 18 A. To date, no, not in the talc 19 litigation at all. 20 Q. Your report at paragraph 1 refers to 21 a location in Ventura, California. 22 Is that where she's located? 23 A. That's correct. 24 Q. Has there been any other -- has</p>
<p>1 Do you want me to give you an 2 example to understand or -- 3 Q. Well, when you say "the majority," 4 what percentage of your clients are now this -- 5 these new technology clients? 6 A. I'd say right now 90 to 98 percent 7 of our clients. We have one client that is not in 8 this area of new technologies, but most of the 9 clients we're working with are in a space of 10 emerging technologies in ways to make ingredients 11 for food or make foods in bioreactors. So 12 cell-based meat. I don't know if you've seen the 13 press on that. That's an area we're working in. 14 We're also working on novel food 15 ingredients produced by methods of biotechnology. 16 Q. You said you were going to give me 17 some examples. 18 Are those examples? 19 A. Those are examples. Exactly, yes. 20 Q. Has Ms. Rudenko worked in the past 21 on any talc product, if you know? 22 A. I don't know whether she did or not. 23 I can't answer that. 24 Q. Do you know whether she has done any</p>	<p>1 there been any other change in the employees of 2 your consulting business since your MDL deposition 3 in December of 2018? 4 A. So we're partners. My husband is 5 still -- is a contractor to the new company. He's 6 not a salaried employee. And we have -- we have a 7 permanent subcontractor. When I say "permanent," 8 he -- we guarantee him 10 hours a week of work. 9 He's also a recently retired FDA person that was a 10 friend of Larisa's who retired from FDA about a 11 year ago. 12 Q. Who is that? 13 A. Dr. Robert Merker, M-e-r-k-e-r. 14 Q. Has he assisted you in any of your 15 litigation work? 16 A. No, huh-uh, he has not. 17 Q. And when you say -- you answered 18 earlier that Dr. Rudenko has not yet -- not 19 assisted you in any of your litigation work. 20 Do you anticipate her -- asking her 21 to assist you in any way in your litigation work? 22 A. It's possible I may have her work 23 with me on some cases in the -- in the future, 24 yes. She has an interest, but right now she is</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 18	Page 20
<p>1 not doing that. And the talc litigation I don't 2 know that she would because there's a lot to come 3 up to speed on. So I don't know if she has that 4 interest or not.</p> <p>5 Q. In what state did you set up this 6 new partnership?</p> <p>7 A. Texas. It's a Texas LLC.</p> <p>8 Q. What percentage of your business 9 time this year, that is 2021, has been spent on 10 litigation matters?</p> <p>11 A. Less than 30 percent.</p> <p>12 Q. Same question as to 2020.</p> <p>13 A. Also less than 30 percent in 2020.</p> <p>14 Q. Same question as to 2019.</p> <p>15 A. Oh, 2019 was probably about -- it 16 was probably a third. It was more of my income in 17 2019 than it was -- than it is in 2020 and 2021 so 18 far.</p> <p>19 Q. When you say as to 2021 and 2020 20 less than 30 percent, are you able to be any more 21 precise?</p> <p>22 A. Well, 2021 is kind of hard because I 23 don't have statistics for the year. In 2020, it 24 was actually about 18 percent of my -- of my -- my</p>	<p>1 That's we're 50 percent partners, so 50/50. I'm 2 sorry.</p> <p>3 She draws a salary as well. We draw 4 equal salaries right now from the company, and 5 then we pay -- we pay the subcontractors as well, 6 and they come out of whatever is brought in from 7 the company overall. So, in other words, we don't 8 segregate that only litigation assets go to 9 Dr. Plunkett. They go to the company, and then we 10 all share within that.</p> <p>11 Q. So you and Dr. Rudenko are paid the 12 exact same amount from the company?</p> <p>13 A. In terms of our salary, yes. Then 14 based on profit sharing, even though we're 50/50 15 partners, there may be some instances where she 16 has something that is just for her. Because she 17 had some old clients that came into the company 18 and so those are not handled the same way 19 necessarily as -- as other things.</p> <p>20 But anything that I bring in pretty 21 much is -- is distributed through the company with 22 equal shares to the -- to the partners, and then I 23 have -- I cover also right now -- because I have 24 many more clients than she does, I cover the</p>
<p>1 time that I spent in 2020 because we did run -- I 2 did run a report for that just to figure out what 3 the change was. We had less income in 2020, but 4 we also -- when I say "less income," we had a lot 5 more income in the regulatory area.</p> <p>6 So the majority of the work I did in 7 2020 came out of regulatory projects with the new 8 BioPolicy Solutions clients or in -- also in 9 intellectual property work that I continued to do 10 with my sister's law firm.</p> <p>11 Q. Do the fees paid to you from your 12 litigation work go to the company or directly to 13 you?</p> <p>14 A. To the company.</p> <p>15 Q. What percentage of those fees do you 16 get personally?</p> <p>17 A. Well, I draw a salary from the 18 company. So whatever percentage that is, I don't 19 know. I can't tell you. I draw a salary. There 20 is this -- there was profit sharing between the 21 two of us. So there's distribution is how the LLC 22 is set up. I'm not a lawyer, but you do have to 23 distribute assets at the end of the year. So we 24 did distribute assets based on a 50/50 scale.</p>	<p>1 salaries for the subcontractors as well.</p> <p>2 Q. So the more litigation work that you 3 would do and bring in, you don't get any direct 4 benefit from that personally?</p> <p>5 A. Well, I do as the company does. If 6 the company benefits --</p> <p>7 Q. Right.</p> <p>8 A. -- I benefit, obviously. So 9 (laugh).</p> <p>10 Q. But you don't get -- your salary 11 doesn't go up above Dr. Rudenko based on the 12 amount of litigation work you do?</p> <p>13 A. No, that has not happened. Well, 14 and with the new company. So I'm telling you as 15 of today --</p> <p>16 Q. Okay.</p> <p>17 A. -- that's what we do.</p> <p>18 Q. Are you able to estimate how much 19 revenue your company has received this year from 20 litigation matters?</p> <p>21 A. No, I don't have the number for this 22 year. Like I said, it's about the same amount as 23 last year in terms of being less than 30 percent, 24 and my guess is it's closer to the less than 20</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 22	Page 24
<p>1 percent. But I will tell you that with trials 2 kicking back in, it will absolutely be going up. 3 Q. Are you able to tell me the amount 4 of revenue your company received in 2020 from 5 litigation work? 6 MS. PARFITT: Objection. 7 You can answer. 8 THE WITNESS: I don't -- no, 9 I don't have a number. It was about 18 10 percent of -- of the revenue stream that 11 came in. So a company may -- I mean, we 12 can guess. You want me to guess? I can 13 guess for you, but I don't know. 14 BY MR. HEGARTY: 15 Q. Are you able to take 18 percent of 16 your revenue from the company in 2020 and give me 17 an estimate? 18 A. Well, the company made about 19 \$270,000 in 2020. So I don't have the math. I 20 think that was what it was after expenses. 21 Q. Fair enough. 22 A. Yeah. 23 Q. How about 2019? Are you able to 24 tell me the revenue received by your company from</p>	<p>1 Obviously the COVID pandemic work issues 2 impacted everyone, including me. 3 BY MR. HEGARTY: 4 Q. With regard to the percentage of 5 your -- with regard to your fees from litigation 6 consulting, what percentage of those fees this 7 year are from talc litigation? 8 A. From this year? I don't know. 9 Certainly I would tell you that right now it is 10 the most active litigation I'm involved in. It's 11 the only trials that have started back up for me 12 has been the talc trials. 13 Q. Okay. 14 A. So I can't tell you. I would 15 imagine if I could run the numbers for you at the 16 end of the year and find that out, but right now I 17 can't tell you, no. 18 MR. HEGARTY: We were provided 19 prior to the deposition copies of 20 invoices that I want to mark as exhibits. 21 I'm going to start by marking 22 as Exhibit No. 1 a copy of invoices that 23 begin with the first one of "Talc MDL" 24 November 30, 2018.</p>
<p>1 litigation matters in 2019? 2 A. I don't have that number off the top 3 of my head. I believe I have testified to that 4 before, though, maybe even in talc litigation, but 5 I don't recall. I would say maybe look back at my 6 deposition testimony in another case for talc and 7 I think that is there. 8 Q. Are you able to estimate the revenue 9 from your company from 2019? 10 MS. PARFITT: Objection. 11 THE WITNESS: I can only 12 estimate the -- are you asking -- are you 13 asking me what went into the taxes on the 14 tax forms? 15 BY MR. HEGARTY: 16 Q. Fair enough. 17 A. What I remember from 2020 was the 18 company -- 19 Q. I'm sorry. 2019. 20 A. Oh, I'm sorry. For 2019. The 2019 21 I don't recall -- 22 MS. PARFITT: Objection. 23 THE WITNESS: -- the exact 24 number, but it was more than 2020.</p>	<p>1 (Document marked for 2 identification as Plunkett Exhibit 1.) 3 BY MR. HEGARTY: 4 Q. Do you see that? 5 A. Yes. 6 Q. All of these invoices include as the 7 project name or description "Talc MDL"; is that 8 correct? 9 A. Yes. 10 Q. And I received the two sets of 11 invoices, and this is one set. 12 Are these invoices -- do these 13 invoices in Exhibit No. 1 represent those that you 14 have invoiced for your work on the Talc MDL? 15 A. Yes, that's correct. That's that -- 16 they're segregated that way because I believe you 17 asked for them that way on the notice of 18 deposition. 19 Q. If you turn over to the March 31, 20 2019 invoice? 21 A. Yes. 22 Q. When you -- when you make reference 23 to "review of documents," what do you include in 24 the definition of documents?</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 26	Page 28
<p>1 A. So it would be any documents that -- 2 and the reason I use the word "documents" is 3 because it's not just published literature public. 4 It would include the internal company documents 5 that I have access to. It could include 6 deposition testimony of individuals, even myself 7 within the case. So it's broader. 8 It could include published 9 literature, but it's a broad definition versus 10 just published literature, for example. 11 Q. And on that invoice it says 12 "conference call re MDL deposition." 13 Do you remember who the conference 14 call was with? 15 A. Don't remember the exact number of 16 people, no, but I'm sure it was either someone -- 17 it may have been a combination of people from 18 Beasley Allen and maybe Ms. Parfitt as well. I 19 don't know. Both of those -- both of those firms 20 are involved with me working on the MDL. 21 Q. Would you turn to the last page of 22 Exhibit No. 1. That invoice is not dated. 23 Do you -- are you aware of a date of 24 that invoice?</p>	<p>1 BY MR. HEGARTY: 2 Q. Would you tell me what those sets -- 3 that set of invoices represents? 4 A. This is other talc litigation. So 5 this would be the state cases that I've worked on 6 since my deposition that was given in the MDL. 7 Q. Would you turn to the invoice dated 8 April 30, 2020, and tell me when you can find it. 9 A. Yes, I'm there. 10 Q. The description of the work on that 11 invoice says "review of documents and call with 12 client." 13 What does "client" mean? 14 A. That would be the attorneys. I 15 apologize. 16 Q. Okay. 17 A. Yeah. Yeah. Yeah. I don't -- I 18 don't speak with plaintiffs specifically. This is 19 my client would be the law firm. 20 Q. Would you turn to the next invoice. 21 That invoice is also not dated. 22 Can you tell me the date of that 23 invoice? 24 A. I apologize these aren't dated. And</p>
<p>1 A. This would have -- should have been 2 -- hold on. Should have been sent the end of -- I 3 filed the report on July 2nd. So it would have 4 been June 20 -- and I apologize. It should be on 5 there. 6 Q. Okay. 7 A. June 2021. 8 Q. Does the time set out in this report 9 represent the -- all the time you spent in 10 preparing your amended MDL report? 11 A. Just this invoice? 12 Q. Just this invoice. 13 A. No. I would say document review 14 that may have occurred early. Some of these 15 documents that I reviewed in 2020 were discussed 16 within my report. But I would say to you if you 17 want to talk -- if you're asking me about the time 18 I sat down and actually drafted it, it would be 19 this time, yes. 20 MR. HEGARTY: All right. The 21 next set of invoices I will mark as 22 Exhibit No. 2. 23 (Document marked for 24 identification as Plunkett Exhibit 2.)</p>	<p>1 you know what? Maybe I should get you those with 2 dates on them. So I apologize for that. I don't 3 know the -- the date. I'd have to look at the 4 date -- 5 Q. Okay. 6 A. -- to tell you what that was. 7 The same thing with the next one I'm 8 noticing it doesn't have a date either. So... 9 Q. On the one we were looking at, 10 there's a list -- there's a list of a number of 11 cases. 12 Are those all cases in which you 13 have done -- done work on as reflected in this 14 invoice? 15 A. Yes. And so this was an unusual 16 request from the law firm to break out document 17 review into variety of different cases, and so 18 that's what I did. 19 Q. I did not see a reference in the 20 invoices provided to the Kleiner case from 21 Pennsylvania. 22 Have you billed any time to the 23 Kleiner case in Pennsylvania? 24 A. Not yet, but I would be billing when</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 30	Page 32
<p>1 I show up at the trial. 2 Let me just clarify. The issue is 3 that it wasn't until sometime in 2020 where I was 4 asked to always make sure to reference individual 5 cases if I could. Before that, I would -- may put 6 MDL or state cases, but -- but I've been asked to 7 do it this way. 8 And actually based on the payment of 9 this, I will tell you, being that it was paid in 10 February, my guess is the bill would have been 11 sometime within 90 days before that. 12 Q. Okay. 13 A. Okay? Just -- but I can -- if you 14 need those, I can certainly provide that. 15 Q. Would you turn to the next page. 16 There's no description of the -- the matter other 17 than "talc." 18 A. (Laugh). I apologize for that. 19 Q. What does this invoice represent? 20 It's the one that's -- 21 A. Sure. 22 Q. -- for 450 total. 23 A. Yeah. So this would have been 24 unspecified state cases. So, in other words,</p>	<p>1 Q. You say you are in the process of 2 preparing a report? 3 A. Yes. I've been working on a report, 4 yes. 5 Q. And does this invoice reflect the 6 time you spent in working on that report? 7 A. As for this month that was -- that 8 was invoiced here, yes, and there's another one. 9 Q. And the next one -- 10 A. Yeah. 11 Q. And the next one is also related to 12 a Canada case. 13 Is that the same matter? 14 A. Same matter. This one hasn't -- let 15 me see check something. Yeah. This one has not 16 been paid you'll notice. So this is an 17 outstanding invoice. So it says paid, that means 18 I have received payment. If it isn't, then it's 19 an outstanding invoice. 20 Q. Do you know what Canadian province 21 the case is pending in? 22 A. I don't know. 23 Q. You mentioned that it related to 24 regulatory matters?</p>
<p>1 where I wasn't asked to specify or needed to 2 specify a state case, but it is not the MDL. I 3 always was asked to separate MDL from other cases. 4 Q. Same question same answer for the 5 next one? 6 A. Yes, exactly. 7 Q. That's the one that said \$1200. 8 A. Uh-huh. 9 Q. If you turn to the next one, there's 10 a reference to a Canada case or cases. 11 What is that? 12 A. So I have been asked to look at 13 issues related to the regulatory system in Canada 14 and I have not yet filed a report, but I've been 15 working on that. 16 Q. Is that related to a particular 17 matter or case? 18 A. A case in Canada, but I don't know 19 any more details. I have to -- to dig into that. 20 Q. What law firm are you working with? 21 A. I'm working through Beasley Allen 22 and I believe Ms. Parfitt's firm, Ashcraft is also 23 involved. But definitely, definitely Beasley 24 Allen.</p>	<p>1 A. Well, the -- 2 MS. PARFITT: I'm going to 3 object at this point in time, Mark, with 4 regard to the fact there's been some 5 consulting responsibilities. 6 MR. HEGARTY: Fair enough. 7 MS. PARFITT: Thank you. 8 BY MR. HEGARTY: 9 Q. Would you look through the rest of 10 the invoices and tell me whether Exhibit No. 2 11 represents the -- all of the invoices that you 12 have provided to counsel since 2000 -- in 2019 13 through 2021. 14 A. Yes, I believe so because I actually 15 went to my system and -- and had these pulled. 16 Q. Okay. 17 A. So, yes. 18 Q. We talked earlier about your 19 consulting outside of litigation matters. 20 Are you currently consulting outside 21 of litigation matters on any cosmetic product? 22 A. Not a product. On ingredients. 23 Q. What kind of ingredient? 24 MS. PARFITT: I'm going to</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 34	Page 36
<p>1 object at this point in time as well as 2 far as her consulting activities because 3 I'm not certain whether there's some 4 proprietary aspect to which -- for which 5 we would obviously be concerned.</p> <p>6 MR. HEGARTY: Let me lay some 7 foundation.</p> <p>8 MS. PARFITT: Thank you.</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. And tell me whether you can answer 11 the question.</p> <p>12 Are you able to provide the type of 13 or description or generalities as to the 14 ingredient as opposed to identifying the company 15 you're working for?</p> <p>16 A. So I can give you some general 17 description. I mean, the company is I typically 18 would not do that without checking with the -- I'm 19 working through an attorney on intellectual 20 property issues as well as regulatory issues.</p> <p>21 Q. Are you able to through your -- are 22 you able to give me any kind of general 23 description of the cosmetic ingredient?</p> <p>24 A. Yes. I can tell you that there is a</p>	<p>1 ingredient?</p> <p>2 MS. PARFITT: Objection.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 That's a good question. It's possible 5 that the finished products may. I don't 6 know.</p> <p>7 BY MR. HEGARTY:</p> <p>8 Q. How many consulting matters did you 9 have in 2019 involving cosmetics? Just 10 approximately.</p> <p>11 A. Well, it was -- it was ongoing work.</p> <p>12 Q. These are non-litigation matters.</p> <p>13 A. In 2019 you said?</p> <p>14 Q. 2019.</p> <p>15 A. Probably 20 percent of the time that 16 I spent overall in my consulting practice, and it 17 was probably 80 percent of the work I was doing 18 through my sister's law firm at the time.</p> <p>19 Q. Same question as to 2020.</p> <p>20 A. About the same. Although it also -- 21 I would say it wasn't all cosmetic ingredients. I 22 also worked on some food ingredients for the same 23 client --</p> <p>24 Q. Yeah.</p>
<p>1 variety of different types of ingredients. 2 They're -- a lot of them are natural plant 3 extracts. A lot of the ingredients I'm looking 4 at. So they're complex mixtures of plant extracts 5 that are going into various cosmetics based on the 6 bioactivity of the -- of the ingredient.</p> <p>7 Q. Are you able to identify for me the 8 types of cosmetics that these ingredients going on 9 into?</p> <p>10 MS. PARFITT: I'm going to 11 object again because I'm concerned we're 12 getting a little too close to the 13 proprietary nature of this.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. Is that getting into the proprietary 16 part of your consulting relationship?</p> <p>17 A. It would to give you the exact 18 names. I could just tell you that it's all 19 different kinds of products. They would go into a 20 variety of different kinds of formulations. It's 21 not just one particular product.</p> <p>22 Q. Are you currently consulting outside 23 of litigation matters as to any cosmetic 24 ingredient or any cosmetic that has talc as an</p>	<p>1 A. -- who is a company that has a 2 variety of different kinds of subsidiaries.</p> <p>3 Q. And my question is exclusive as to 4 cosmetic.</p> <p>5 A. I couldn't give you a percentage. 6 As I say, I know I would worked on more than 7 cosmetic ingredients for this client in 2020.</p> <p>8 Q. What percentage of your time in 2021 9 has been spent on consulting matters involving a 10 cosmetic ingredient?</p> <p>11 A. Probably about 20 percent of my 12 overall time this year so far.</p> <p>13 Q. From 2019 to 2020, did you do any 14 consulting for the American Chemistry Council?</p> <p>15 A. No.</p> <p>16 Q. Have you consulted from 2019 to 17 today with any trade group?</p> <p>18 A. No, I don't believe so.</p> <p>19 Q. Have you consulted from 2019 to 20 today with any pesticide manufacturer?</p> <p>21 MS. PARFITT: Again, just 22 object just to the extent it may reveal 23 some proprietary relationship. So...</p> <p>24 THE WITNESS: No, I don't</p>
	<p>10 (Pages 34 to 37)</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 38	Page 40
<p>1 believe I have. No. 2 BY MR. HEGARTY: 3 Q. Have you consulted from 2019 to 4 today with any chemical manufacturer? 5 MS. PARFITT: Again, objection 6 to the extent it may involve some type of 7 proprietary consulting arrangement. 8 THE WITNESS: Yes. There have 9 been some companies that make chemicals, 10 yeah, with the general term "chemical," 11 yes. 12 BY MR. HEGARTY: 13 Q. All right. What -- what are your 14 limitations on talking about those consulting 15 matters? 16 A. Because it comes through an 17 attorney. So I look at what I do as being 18 privileged and confidential without gaining -- in 19 other words, it's not a direct agreement with the 20 -- I don't have a direct contract with the 21 company. I work through a law firm. 22 Q. Okay. Have you done any consulting 23 in the last three years on any lead paint product? 24 MS. PARFITT: Again, objection</p>	<p>1 MS. PARFITT: -- I just -- 2 THE WITNESS: Okay. 3 MS. PARFITT: -- caution you 4 to be careful with -- 5 MR. HEGARTY: Yeah. 6 MS. PARFITT: -- regard to any 7 type of proprietary -- 8 BY MR. HEGARTY: 9 Q. And this question -- 10 MS. PARFITT: -- arrangement. 11 BY MR. HEGARTY: 12 Q. And this question would be public. 13 That's public. 14 A. Yeah. Not -- no, not in that time 15 frame. I have not. 16 Q. Have you communicated with any 17 regulatory agency or group on any topic in the 18 2019 to 2021 time period? 19 A. Yes. 20 Q. What agency, what regulatory agency 21 or group? 22 A. So I -- you should be aware I was -- 23 I attended and participated in the February 24 2020 --</p>
<p>1 to the extent it reveals any consulting 2 proprietary agreement that Dr. Plunkett 3 has. 4 THE WITNESS: No, I can say 5 that definitively I have not. That has 6 not come up in the last couple of years. 7 BY MR. HEGARTY: 8 Q. Same question as to any pesticide 9 products. 10 MS. PARFITT: Objection to the 11 extent it goes into proprietary 12 consulting arrangements. 13 THE WITNESS: I do, indeed, 14 continue to work on some issues related 15 to products that are active ingredients 16 in pesticide formulations, yes. 17 BY MR. HEGARTY: 18 Q. Have you communicated with any 19 regulatory agency or group on behalf of the 20 American Chemistry Council or any other company or 21 trade group in the 2019-2021 time period? 22 MS. PARFITT: Objection. 23 Again, Dr. Plunkett -- 24 THE WITNESS: Myself, no.</p>	<p>1 Q. Yes. 2 A. -- talc meeting at FDA. 3 Q. Any other such regulatory agency or 4 group meeting or presentations that you were 5 involved in? 6 A. Yes, for some of my clients. Again, 7 some of that is confidential work at this point, 8 but, yes, I -- in the BioPolicy Solutions space, 9 I'm currently assisting with regulatory 10 submissions to the FDA for four different clients. 11 So I'm interacting with the FDA by e-mail at 12 least, but also we've had some virtual meetings. 13 Q. Are there any -- have there been any 14 publicly available or publicly aware -- known 15 communications with any regulatory group or any 16 regulatory agency or group besides the FDA? 17 MS. PARFITT: Again, object. 18 I'm not sure I understand the question. 19 BY MR. HEGARTY: 20 Q. Where you -- sure. 21 Other than your presentation to FDA 22 in February 2020, have you communicated in a 23 public way that's not in a confidential manner 24 with any other regulatory agency or group in the</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 42	Page 44
<p>1 2019-2021 time period?</p> <p>2 MS. PARFITT: About anything</p> <p>3 at all?</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. About anything.</p> <p>6 A. Outside of the FDA?</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. What have you done outside of the</p> <p>10 FDA?</p> <p>11 MS. PARFITT: Objection.</p> <p>12 THE WITNESS: Just in general</p> <p>13 I can tell you that I've had interactions</p> <p>14 with the Singapore Food Authority. I've</p> <p>15 had some interactions with the EFSA and</p> <p>16 interactions with the Ministry of Health,</p> <p>17 Labour and Welfare, MHLW, in Japan.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. What --</p> <p>20 A. And also -- and also FSANZ, Food</p> <p>21 Safety -- the food safety group New Zealand and</p> <p>22 Australia. I think it's called FSANZ, F-S-A-N-Z.</p> <p>23 Q. You said an acronym earlier.</p> <p>24 What was that acronym?</p>	<p>1 was food. EFSA was food, but not</p> <p>2 everything was food.</p> <p>3 BY MR. HEGARTY:</p> <p>4 Q. Would any of those product have talc</p> <p>5 as an ingredient?</p> <p>6 MS. PARFITT: Objection.</p> <p>7 THE WITNESS: That I worked</p> <p>8 on?</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. That you worked on.</p> <p>11 A. The project -- I don't believe so,</p> <p>12 but I can't -- I don't think so, no.</p> <p>13 Q. Other than the interaction you had</p> <p>14 with FDA in 2020, have you provided testimony to</p> <p>15 any regulatory group or organization in the 2019</p> <p>16 to 2021 time period?</p> <p>17 A. Not how I define testimony as having</p> <p>18 been like in a public meeting or commenting, no.</p> <p>19 MS. PARFITT: And I assume</p> <p>20 that was the nature of the question.</p> <p>21 MR. HEGARTY: Correct. That</p> <p>22 was my question.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. How about where you submitted a</p>
Page 43	Page 45
<p>1 A. MHLW. The Ministry of Health,</p> <p>2 Labour and Welfare I believe is what it means at</p> <p>3 Japan. It's the -- it's the Japanese equivalent</p> <p>4 to -- they do a lot of the same things that the</p> <p>5 FDA does for certain kinds of products.</p> <p>6 Q. The other one you mentioned was</p> <p>7 EFSA?</p> <p>8 A. EFSA.</p> <p>9 Q. What is that?</p> <p>10 A. European Food Safety Authority. So</p> <p>11 it's a separate body that advises the European</p> <p>12 Union, the EC, and the European Commission on</p> <p>13 issues related to food safety.</p> <p>14 Q. Did all of these interactions that</p> <p>15 you just mentioned involve food safety in one way</p> <p>16 or another?</p> <p>17 MS. PARFITT: Again, to the</p> <p>18 extent it involves any proprietary</p> <p>19 communication --</p> <p>20 THE WITNESS: Sure.</p> <p>21 MS. PARFITT: -- I ask you not</p> <p>22 to respond.</p> <p>23 THE WITNESS: Product safety</p> <p>24 in general I would say. Not everything</p>	<p>1 written statement that's public to any regulatory</p> <p>2 group or organization? Have you done that in the</p> <p>3 2019 to 2021 time period?</p> <p>4 A. Nothing that's public, but I have</p> <p>5 submitted comments to the agencies as part of my</p> <p>6 work with clients that is still considered</p> <p>7 confidential business information.</p> <p>8 MR. HEGARTY: I'm going to</p> <p>9 mark as the next exhibit Exhibit No. 3.</p> <p>10 (Document marked for</p> <p>11 identification as Plunkett Exhibit 3.)</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. Exhibit No. 3 is the list of</p> <p>14 testimony that we have been provided that you have</p> <p>15 given either by deposition or at trial in the last</p> <p>16 four years or I guess since 2016.</p> <p>17 Is this list that we marked as</p> <p>18 Exhibit No. 3 a complete list of the testimony</p> <p>19 that you have provided either by deposition or at</p> <p>20 trial in litigation since 2016?</p> <p>21 A. Yes.</p> <p>22 Q. If you would turn over to page 5,</p> <p>23 there's a reference towards the bottom to Coleman</p> <p>24 case, Cook Medical?</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 46	Page 48
<p>1 A. Uh-huh. 2 Q. Can you give any better description 3 of what that matter is? 4 A. It was an IVC filter that was 5 manufactured by Cook Medical. Particular -- I 6 don't remember the particular model but -- and I 7 gave a deposition related to the injuries caused 8 by, but I was mainly talking in this case about 9 some of the regulatory oversight for 510(k) 10 devices at FDA. I was working on behalf of 11 plaintiffs that had filed injury cases, and this 12 actually may have been someone who died. I'm not 13 sure. 14 Q. Do you recall where that case was 15 located? 16 A. What state? I don't know. I can't 17 tell you that. I don't recall. 18 Q. Would you turn -- 19 A. Could be -- this could be one that 20 settled. So I just don't -- I don't recall. 21 Q. Would you turn over to page 7, 22 please. Towards the top, there's a reference to 23 McDermott case. 24 Can you provide any more details</p>	<p>1 been any kinds of global settlement or things like 2 that. 3 Q. Do you have any depositions 4 scheduled in 2021 after today? 5 A. No. Just some trial testimony 6 that's scheduled. 7 Q. And that trial testimony would 8 include -- or let me back -- let me back up. 9 Other than talc cases, do you have 10 any planned trial testimony in 2021? 11 A. I have -- 12 MS. PARFITT: Where you've 13 been disclosed. 14 THE WITNESS: Yeah. 15 BY MR. HEGARTY: 16 Q. Where you've been disclosed, yes. 17 A. Yeah. Yeah. Yeah. 18 So, no, I have dates on my calendar 19 for upcoming trials in several IVC filter cases, 20 and I have an upcoming trial testimony scheduled 21 in November for Taxotere. 22 Q. What defense firm represents the 23 defendant in the IVC filter cases? 24 A. Oh, a lot of different defense</p>
<p>1 about that case name besides the McDermott case? 2 A. So that I believe was also an IVC 3 filter case, and I'd have to dig out to get you 4 which company was involved. It may have -- it was 5 -- it would have either been Rex Argon, Cook 6 Medical, or Cordis. 7 Q. Okay. 8 A. Those are the three types of 9 devices -- those are the manufacturers of the 10 three types of devices that I have been working 11 on. 12 Q. Have there been any cases since 2018 13 where you have been identified or disclosed as an 14 expert witness, but where you have not given 15 deposition or trial testimony? 16 Besides those listed in -- 17 A. Well, I -- 18 Q. -- Exhibit 3. 19 A. Yeah. So I'm sure that I have been 20 designated in other talc cases, for example. That 21 for sure, and I'm sure there's other IVC filter 22 cases. Those are the two areas of litigation that 23 are what I call active right now where I know that 24 there are trials upcoming and that there hasn't</p>	<p>1 firms. I can't tell you. I'm trying to think 2 who -- I'm trying to think of his name. 3 Q. Is there a national counsel? 4 A. Yeah, I'm sure there -- well, there 5 is for Cordis. I'm not sure on Rex Argon. It's a 6 company based out -- all the cases are coming out 7 of Philadelphia because they're a Pennsylvania 8 firm. I'm trying to think who showed up. There 9 are people I don't usually see. 10 Q. Okay. 11 A. They're not -- they're not like 12 Covington and the big firms that I sometimes see. 13 Or like your firm. Yeah. 14 Q. So you don't remember who represents 15 Cordis? 16 A. No. But if you go to the 17 depositions, obviously if you pull the 18 depositions, you'll -- you'll -- they will all be 19 listed there. 20 MR. HEGARTY: I'm going to 21 mark next as Exhibit 4 a copy of at least 22 one of the more recent CVs of yours. 23 (Document marked for 24 identification as Plunkett Exhibit 4.)</p>

13 (Pages 46 to 49)

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 50	Page 52
<p>1 BY MR. HEGARTY:</p> <p>2 Q. Would you look at that and tell me</p> <p>3 whether that is, I guess, the -- the more recent</p> <p>4 CV of yours with one update needed; is that</p> <p>5 correct?</p> <p>6 A. That's correct. Yes.</p> <p>7 Q. What is that update?</p> <p>8 A. So on page 3 -- oh, no. This one</p> <p>9 actually has it. No. This one is good. (Laugh).</p> <p>10 It has it on page 3.</p> <p>11 I was looking for one that has the</p> <p>12 listing for "President, Society of Toxicology,</p> <p>13 Risk Assessment Specialty Section." So this one</p> <p>14 is an updated one. So you have it.</p> <p>15 Q. Okay. Good.</p> <p>16 So Exhibit 4 is your current</p> <p>17 curriculum vitae?</p> <p>18 A. That's correct.</p> <p>19 Q. You can keep that in front of you.</p> <p>20 A. All right.</p> <p>21 Q. Your curriculum vitae includes all</p> <p>22 of your publications; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. It also includes all of your</p>	<p>1 Q. Did that presentation touch on any</p> <p>2 of the matters or opinions that you have in your</p> <p>3 MDL reports?</p> <p>4 A. It did touch -- I did use -- I did</p> <p>5 talk or was asked questions, actually, by the</p> <p>6 students about talc and ovarian cancer. So, yes.</p> <p>7 I don't think I had a slide on that, but it came</p> <p>8 up because the students were -- had seen --</p> <p>9 obviously in the press they see things, and they</p> <p>10 were very interested in sort of topical nature of</p> <p>11 the kinds of things that are out there that deal</p> <p>12 with the issue of reproductive toxicology.</p> <p>13 Q. Who invited you to give that</p> <p>14 lecture?</p> <p>15 A. Judith Zelikoff. She's -- I met her</p> <p>16 through the Society of Toxicology. We were both</p> <p>17 on the nominating committee several years ago and</p> <p>18 became friends, and I like to lecture and she's</p> <p>19 happy to bring people in from outside.</p> <p>20 Q. Do you know that she's also a</p> <p>21 plaintiff's expert in the MDL?</p> <p>22 A. I do now. It's funny. When she and</p> <p>23 I first met and I agreed to work with her, I did</p> <p>24 not know that, but yes.</p>
<p>1 abstracts and presentations?</p> <p>2 A. Yes.</p> <p>3 Q. If you turn over to page, I think,</p> <p>4 7, there's a couple abstracts listed there since</p> <p>5 2019. They are actually dated 2021.</p> <p>6 What did those pertain to?</p> <p>7 A. They're presentations that I gave at</p> <p>8 two different meetings on the issues of regulatory</p> <p>9 and commercialization issues with CBD products.</p> <p>10 Cannabidiol is abbreviated CBD.</p> <p>11 Q. Would you turn over to the</p> <p>12 presentations list on page 13. You have a couple</p> <p>13 presentations listed there in paragraphs 1 and 2</p> <p>14 where you were invited lecturer first at NYU.</p> <p>15 What did that lecture involve?</p> <p>16 A. It was a general toxicology lecture</p> <p>17 in a course that is held -- it's part of their</p> <p>18 master's program at NYU and I was -- my lecture</p> <p>19 was a general topic of reproductive toxicology.</p> <p>20 In other words, how do you test for it. Examples</p> <p>21 of reproductive toxicants. What kinds of injuries</p> <p>22 can be seen in people that may be harmed by</p> <p>23 something that attacks the parts of the</p> <p>24 reproductive system.</p>	<p>1 Q. You mentioned that you knew her</p> <p>2 before being invited --</p> <p>3 A. Yes.</p> <p>4 Q. -- to this lecture?</p> <p>5 A. That's correct. Yes. Through the</p> <p>6 Society of Toxicology.</p> <p>7 Q. Paragraph 2 lists another</p> <p>8 presentation.</p> <p>9 What did that -- I'm sorry. That's</p> <p>10 the one we'll talk about here in a moment. I</p> <p>11 meant paragraph number 3.</p> <p>12 What did that lecture concern?</p> <p>13 A. So that was a general lecture again,</p> <p>14 and she had a different course on risk assessment</p> <p>15 that year, and that course she asked me to speak</p> <p>16 about my experience with risk assessment for</p> <p>17 pesticides. And so I called it "Pesticide</p> <p>18 Toxicology" being that recently that was -- that's</p> <p>19 the underpinning of the risk assessment. It's</p> <p>20 done for registration of pesticides in the U.S.</p> <p>21 You have to do a series of toxicological</p> <p>22 evaluations.</p> <p>23 Q. This was, again, through</p> <p>24 Dr. Zelikoff?</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 54	Page 56
<p>1 A. Yes, exactly. Different course, but 2 yes. 3 Q. You mentioned that with regard to 4 the presentation that's listed in paragraph 5 number 1 you did prepare a PowerPoint presentation 6 for that? 7 A. Yes. 8 Q. How about the presentation mentioned 9 in paragraph number 3? 10 A. Yes, I did for that one as well. 11 Q. Since your -- 12 A. I should also tell you. I didn't 13 put this on here. In number 1, that was actually 14 a virtual presentation because we weren't allowed 15 to travel. So the 2019 one I actually traveled up 16 to New York City, but that one was a virtual 17 presentation. 18 Q. Since your MDL deposition in 19 December of 2018, have you given any presentations 20 to any group besides the FDA presentation where 21 talc was discussed and this presentation that we 22 just talked about at NYU? 23 A. Uh-huh. I don't believe so, no. 24 Q. Same question as to ovarian cancer.</p>	<p>1 On talc and those kinds of things, no. 2 BY MR. HEGARTY: 3 Q. And since your deposition in 4 December 2018 in the MDL, have you written -- have 5 you published any article where you discussed any 6 of these topics: talc, ovarian cancer, asbestos, 7 heavy metals, silica, or fragrances? 8 A. No, not in a -- in an article, no. 9 Q. You mentioned earlier that you 10 had -- or let me strike that. 11 You identified in recent testimony a 12 committee of the EPA to which you self-nominated 13 in 2020. 14 Do you recall that testimony? 15 A. Yes, I do. 16 Q. Can you identify for me any other 17 committees that you are nominated for either 18 yourself or by others to which you were not 19 selected? 20 A. Not since -- not since my last 21 deposition. If you're limiting it to that time 22 period, that would have been the only example. In 23 the past, I have volunteered for committees at EPA 24 and may not have been chosen, but I don't -- I</p>
<p>1 A. I don't believe, other than the 2 reproductive toxicology, no. 3 Q. Same question as to asbestos. 4 A. No, I don't believe I touched on 5 asbestos, actually, in those -- in that 6 presentation -- either of those -- those lectures. 7 Q. Same question as to heavy metals. 8 A. I did speak to heavy metals with 9 reproductive toxicology because there's enough -- 10 there's several that deal with -- you have to deal 11 with that issue. 12 Q. Since your MDL deposition in 13 December 2018, have you given any presentations 14 for any group where silica was discussed? 15 A. I don't believe so, no. 16 Q. How about where fragrances were 17 discussed? 18 A. Don't think so, no. 19 Q. Do you have any presentations 20 planned through the rest of 2021 or 2022 regarding 21 any of the topics I just covered? 22 MS. PARFITT: Objection. 23 THE WITNESS: Other than 24 trial testimony, no, I don't believe so.</p>	<p>1 don't have a list of those. So I can't tell you 2 that. 3 Q. Okay. With regard to the EPA 4 committee to which you were not selected in 2020, 5 do you have any documentation from -- remaining 6 from your submission or from comments back or from 7 any correspondence? 8 A. The only documentation, there was a 9 document marked as an exhibit at trial that had 10 the summary that I wrote. That summary was 11 actually something that I wrote and that EPA put 12 into the -- the docket, I guess, to describe who 13 was being nominated. 14 I may have an e-mail because I know 15 I got an e-mail in maybe late 2020, early 2021 16 saying that I had not been chosen, but they were 17 keeping my credentials on record for further 18 committees that may come up. 19 Q. Other than possibly an e-mail, do 20 you have any other documents related to the 21 nomination for or response by this EPA committee 22 in 2020? 23 A. No, I do not. 24 Q. Since your MDL deposition in 2018,</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 58	Page 60
<p>1 have you discussed your opinions in your June 2021 2 MDL report with any colleague or group not 3 involved in the litigation that we have not 4 discussed already?</p> <p>5 MS. PARFITT: I'm going to 6 object to the form.</p> <p>7 If you could, you're free to 8 answer.</p> <p>9 THE WITNESS: Other than -- 10 other than confidential discussions with 11 attorneys, no. If you're asking me about 12 scientists outside of, no, I haven't. I 13 haven't done that.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. You mentioned earlier that you 16 appeared at the February 4, 2020 FDA meeting, 17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Did you hear about this meeting on 20 your own?</p> <p>21 A. I do believe I saw it in the Federal 22 Register on my own. I don't know whether, though, 23 I had been told about it first by the attorneys 24 that are involved in litigation, but I did see it</p>	<p>1 go from making that call to actually being listed 2 as a presenter? 3 A. So I had to be -- 4 MS. PARFITT: Objection. 5 Form. 6 THE WITNESS: All I know is I 7 know I had to request. I had to send 8 in -- on the website for the FDA, they 9 had you send in your name and your 10 request and what you want to talk about. 11 So I sent that in myself and I was 12 given -- what was it? -- five minutes 13 during the public comment period to 14 present.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. Do you still have what you sent to 17 FDA in some electronic or document form?</p> <p>18 A. You mean my -- my PowerPoint 19 presentation?</p> <p>20 Q. No, I'm sorry. What you submitted 21 to FDA --</p> <p>22 A. Oh, the ask.</p> <p>23 Q. -- to be put on the -- on the 24 speaker list.</p>
Page 59	Page 61
<p>1 on my own as well. I get what I call daily 2 newsletters where those kinds of things show up 3 from the FDA world, and so it was -- it was posted 4 and made available on those newsletters.</p> <p>5 Q. How did you come to speak at that 6 presentation?</p> <p>7 A. Well, I actually -- I actually 8 called the attorneys and let them know that I was 9 interested in doing so, and so actually I -- that 10 was on my own dime. I paid my own way to go 11 and -- and developed my own comments in order to 12 present at the meeting. I wanted it to be 13 Dr. Plunkett, not Dr. Plunkett through another -- 14 another body.</p> <p>15 Q. You mentioned that you communicated 16 with the attorneys about going. 17 What attorneys?</p> <p>18 A. I believe I spoke with Mr. Meadows, 19 Ms. O'Dell, and maybe Ms. Parfitt was on the 20 phone. I don't recall, but I did -- they would -- 21 I called them. Obviously I wouldn't have done it 22 without letting them know that I was doing that 23 and that I had an interest in doing that.</p> <p>24 Q. To the extent you know, how did you</p>	<p>1 A. I might. I might. I'm sure I have 2 the e-mail still. I believe I did send a little 3 bio sketch of who I am. So I probably do have 4 that.</p> <p>5 Q. Did you get a response back from FDA 6 to which you still have a copy of?</p> <p>7 A. I got the e-mail back saying you -- 8 you can present during the public meeting. You're 9 one of so many. This is how many minutes you 10 have. Maybe it was three minutes. I don't 11 remember, but it was a very small amount of time 12 that everybody was given to -- to present.</p> <p>13 Q. Do you still have that e-mail?</p> <p>14 A. I possibly do on that. That's 15 probably in my archives, yes.</p> <p>16 Q. But you had actually requested by 17 contacting FDA to speak at that FDA meeting?</p> <p>18 A. Yes. Yes, that was the -- that was 19 the -- what was -- what was told -- that's what 20 you were told to do at the website. If you wanted 21 to speak, to send this in.</p> <p>22 Q. Did you understand that this was a 23 public meeting where anyone could appear?</p> <p>24 A. Yes. Well, within limits of the</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 62	Page 64
<p>1 time that they had set aside. That was my 2 understanding. 3 Q. Other than sending in the 4 required -- requested information via the website, 5 did FDA ask you for any additional information? 6 A. I don't recall. I don't believe so, 7 no, once -- once that you were told you could and 8 you were given the time period. 9 Q. Did you meet with any lawyers for 10 the plaintiff in the talc litigation about your 11 testimony that you were going to provide at that 12 meeting? 13 A. I notified them and provided them a 14 copy of the slides I was going to present, yes, so 15 they had an understanding of what I was going to 16 do. 17 Q. Did they provide to you revisions or 18 comments or suggestions as to your slide deck? 19 A. No revisions, no. I mainly got 20 feedback, general feedback that -- that it was 21 fine. 22 MS. PARFITT: Objection. 23 THE WITNESS: You know, 24 essentially, I mean, it was -- there was</p>	<p>1 THE WITNESS: So Ms. O'Dell 2 was there. Mr. Meadows was there. 3 Ms. Parfitt I believe. Maybe you were 4 there. I think so. Mr. Beattie, were 5 you there? I can't recall. 6 BY MR. HEGARTY: 7 Q. Only who you can recall. 8 A. Yeah. Okay. So those three for 9 sure. And then there were some other people there 10 that I have recognized from the past, but I just 11 remember going into the room and seeing people 12 that I recognized from when I used to live in DC, 13 but a specific name I can't tell you. 14 Q. Did -- other than I think you 15 mentioned having coffee with Ms. O'Dell before the 16 meeting, did you meet with or had communications 17 with any other plaintiff's attorney in the talc 18 litigation before the meeting about your 19 testimony? 20 MS. PARFITT: Objection. 21 THE WITNESS: No. I had 22 conversations about I'm going. I'm going 23 to be staying here. Where are you 24 staying? Because we did get together for</p>
<p>1 no -- there was no give-and-take. There 2 was no -- there was no change as to the 3 slides made at the request of the 4 attorneys. 5 BY MR. HEGARTY: 6 Q. Ms. Leigh O'Dell was at the meeting, 7 correct? 8 A. She did. She presented, yes. 9 Q. Did you meet or talk with her 10 beforehand about the meeting? 11 A. Only -- not about the specifics of 12 the meeting, but yes, she was there. We had 13 coffee together. There were other people from -- 14 attorneys I've worked with that were at the 15 meeting, but so I did see them there. I just 16 didn't -- we did not -- we did not discuss any 17 particular issues related to what I was going to 18 be presenting, other than the time period I had. 19 Q. You mentioned that you saw other 20 attorneys there that you knew. 21 What other attorneys did you know 22 that were there? 23 MS. PARFITT: Objection. 24 Form.</p>	<p>1 a dinner or a meal after the -- after the 2 -- after the hearing. 3 BY MR. HEGARTY: 4 Q. Who did you get together for a 5 dinner or a meal after the meeting? 6 A. Ms. O'Dell, Mr. Meadows, 7 paralegal -- a couple paralegals. I think that 8 there was -- there was at least one or two of the 9 plaintiffs, the clients of the law firms were 10 there. And I think at least one of them presented 11 and I -- and I'd have to go back and look for the 12 names. I apologize. 13 Q. Did -- did you pay for your own 14 lunch or meal? 15 A. Yes. I paid all my expenses and -- 16 and my hotel and my plane and all of that, yes. 17 Q. That would include the dinner that 18 you had? 19 A. Oh, some -- you know what? They may 20 have picked up the cost for the dinner afterwards. 21 I don't recall. I believe, though, but I did -- I 22 did pay my -- all my other expenses. That one I 23 don't recall whether I threw my credit card down 24 or not. I can't tell you.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 66	Page 68
<p>1 Q. And when you say you paid for it 2 with your own -- your own money, does that mean 3 you didn't bill that money?</p> <p>4 A. No. Yeah.</p> <p>5 Q. You billed those expenses or that 6 time?</p> <p>7 A. No. It was an expense for my 8 company and me personally at the time.</p> <p>9 Q. There were six other plaintiff's 10 experts who spoke at that meeting.</p> <p>11 Did you meet or talk with any of 12 them?</p> <p>13 A. I saw them at the meeting, but I did 14 not, and a couple of them may have been at the 15 dinner afterwards or the meal afterwards, and I 16 don't even know if it was dinner. It may have 17 been a lunch meeting afterwards, but yes.</p> <p>18 Q. Do you remember their names?</p> <p>19 A. I believe Dr. Godleski was there, 20 and I don't know. That's the one I recall.</p> <p>21 Q. Did you ride with any attorney for 22 plaintiffs in the talc litigation to the hearing?</p> <p>23 MS. PARFITT: Objection. 24 THE WITNESS: We stayed in</p>	<p>1 A. I did.</p> <p>2 Q. Other than what you talked about 3 with regard to providing this to counsel for 4 plaintiffs in the talc litigation, did any lawyer 5 for plaintiffs in the talc litigation assist you 6 in preparing this PowerPoint presentation?</p> <p>7 MS. PARFITT: Objection. 8 Asked and answered.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. Did anyone besides yourself assist 12 you in preparing the PowerPoint?</p> <p>13 MS. PARFITT: Objection. 14 Asked and answered.</p> <p>15 THE WITNESS: My husband made 16 them look pretty. The slides. So, yes. 17 He does formatting for me. So he would 18 have assisted with that.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. With regard to the slide that says 21 "Fibers in Talc Body Powders"?</p> <p>22 A. The one that says "Publicly 23 Available" right here?</p> <p>24 Q. Correct.</p>
<p>1 different hotels. So my guess is no. I 2 know I did not ride there, but I 3 certainly did leave the meeting in Ubers 4 with other people, yes. Or I shouldn't 5 say Uber. That's kind of an 6 advertisement. In a cab. (Laugh).</p> <p>7 BY MR. HEGARTY: 8 Q. Okay. Fair enough.</p> <p>9 A. Afterwards. I was headed back into 10 the city. I didn't leave the city until the next 11 day.</p> <p>12 MR. HEGARTY: You mentioned a 13 moment ago that you prepared a PowerPoint 14 for that presentation. I'm going to show 15 you what I marked as Exhibit No. 5.</p> <p>16 MS. PARFITT: Thank you, Mark. 17 (Document marked for 18 identification as Plunkett Exhibit 5.)</p> <p>19 BY MR. HEGARTY: 20 Q. Would you look at Exhibit No. 5 and 21 tell me whether that is the PowerPoints you used 22 for that presentation.</p> <p>23 A. Yes, it is.</p> <p>24 Q. And did you prepare this PowerPoint?</p>	<p>1 A. Yes.</p> <p>2 Q. Which of the studies that you list 3 found what you call -- what you would call fibrous 4 talc?</p> <p>5 A. I'd have to -- well, I have it here. 6 The ones where it says an F. So all of these. 7 The Pooley and Rowlands says F, Rohl, Paoletti, 8 Blount and Anderson, and as well as the FDA Safety 9 Alert document.</p> <p>10 Q. Would you turn to the next page with 11 the heading "Fiber Toxicity and Carcinogenicity."</p> <p>12 A. Yes.</p> <p>13 Q. Was this a slide that you had used 14 in litigation that you modified for this 15 presentation?</p> <p>16 MS. PARFITT: Objection. 17 THE WITNESS: No. It's a 18 slide that I made based on my research in 19 the litigation, yes, some of this, and 20 then these -- but these slides were made 21 for this purpose only.</p> <p>22 I have -- I don't believe I've 23 used any -- well, the only thing that 24 might be similar to something that's been</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 70	Page 72
<p>1 shown at a trial would be the baby powder 2 bottle language. 3 BY MR. HEGARTY: 4 Q. Okay. Would you turn to the one -- 5 the slide that says "Fiber Toxicity and 6 Carcinogenesis." 7 Was this a slide that you had used 8 in litigation that you modified for this 9 presentation? 10 A. Yes. 11 Q. If you know. 12 A. Yeah. Yeah, I did. I mean, this 13 was something that I modified for the -- for the 14 purposes of here. You'll notice that some of this 15 is similar in terms of the -- I think I had this 16 slide looks more like a stepdown PowerPoint that 17 I've used at trial. 18 Q. Did you modify this PowerPoint slide 19 by adding "fibers" to it whereas before it said 20 "particles"? If you know. 21 A. Well, I certainly did put "fibers" 22 on here and particles and fibers. So, yes. I 23 mean, I would have modified it for that in that 24 way, yes.</p>	<p>1 A. And I sent that in after the 2 meeting, I believe, yes. 3 Q. Did you provide in advance of the 4 meeting the written statement to lawyers for the 5 plaintiffs in the talc litigation? 6 MS. PARFITT: Objection. 7 THE WITNESS: I don't think 8 so, no. I did give it to them, though, 9 with the slides after the meeting, yes. 10 BY MR. HEGARTY: 11 Q. Did you write the written statement 12 yourself? 13 A. Yes, I did. 14 Q. Did anyone assist you in writing 15 that written statement? 16 A. No, that I would have typed up 17 myself. 18 Q. Other than providing your written 19 statement after the meeting to FDA, have you had 20 any contact with FDA with regard to that meeting 21 in any respect? 22 A. No. Although I continue to look at 23 their website to look for what they are doing, and 24 I haven't seen them -- seen the FDA make public</p>
Page 71	Page 73
<p>1 Q. If you turn over to slide 8, the 2 Bibliography in Support of Plunkett Slide 8. 3 Do you see that, Doctor? 4 A. I do. 5 Q. Do any of the studies listed on this 6 slide refer to fibrous talc? 7 A. So you asked me do they use the word 8 "fibrous talc" or do they use the word "talc 9 fibers" or are you asking me -- 10 Q. First of all my question would just 11 be "fibrous talc," those two words. 12 A. I don't know. I'd have to go back 13 and look. I mean, some of them I don't believe 14 would, but, I mean, some of the others may. 15 Q. With regard to the presentation that 16 you gave that day, did you read from a written 17 statement? 18 A. I had prepared a written statement, 19 but I had less time than I thought I would. So I 20 believe -- when I got up there, if I remember 21 correctly, I just talked from my slides, which is 22 what I typically do. But there was -- I did have 23 a written statement prepared, yes. 24 Q. Did you --</p>	<p>1 any additional work from their internal work that 2 I believe that they are doing based upon what they 3 do say on the website. 4 They say they're looking at certain 5 things, but I haven't -- I haven't seen anything 6 else made public. And I have not called the 7 Office of Cosmetics, for example, to ask when to 8 expect anything, no. 9 Q. Have you had any contact with FDA 10 about talc or asbestos other than this one 11 meeting? 12 MS. PARFITT: Objection. 13 Form. 14 THE WITNESS: I'm thinking 15 back to the SOT meeting in 2019, which 16 was the last in-face meeting. There 17 were, indeed, I did, indeed, talk to a 18 number of people at the meeting about 19 presentations on talc and fibers and 20 elongated mineral particles, and I can't 21 tell you if any of them were FDA or not. 22 I don't know. I'd have to go back and 23 look. 24 BY MR. HEGARTY:</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 74	Page 76
<p>1 Q. What is this SOT meeting?</p> <p>2 A. Society of Toxicology. So it's an</p> <p>3 annual meeting held where 15,000 toxicologists get</p> <p>4 together and talk about fun things.</p> <p>5 Q. Do you recall if you did give or</p> <p>6 have discussions with anyone at that meeting about</p> <p>7 talc or asbestos?</p> <p>8 MS. PARFITT: Objection.</p> <p>9 Form.</p> <p>10 THE WITNESS: I did have</p> <p>11 conversations with different scientists</p> <p>12 because there were several posters at the</p> <p>13 meeting and so, yes, I did. I just --</p> <p>14 I'd have to go back and look at my</p> <p>15 program in order to tell you which ones I</p> <p>16 went to. And off the top of my head --</p> <p>17 that's been a couple years ago -- I don't</p> <p>18 recall the exact people who I spoke with.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. That was going to be my next</p> <p>21 question.</p> <p>22 Do you recall any of the scientists</p> <p>23 that you spoke with at that meeting?</p> <p>24 A. Anybody who had a presentation on</p>	<p>1 one, but it was triggered by the finding of</p> <p>2 asbestos in Johnson & Johnson's baby powder.</p> <p>3 That's my understanding when you read what the</p> <p>4 meeting announcement was about.</p> <p>5 Q. And with regard to that February</p> <p>6 2020 meeting, you agree that you are not an expert</p> <p>7 on the testing of talc for asbestos, correct?</p> <p>8 A. No, I don't. I don't do that kind</p> <p>9 of testing myself. I have expertise in -- in</p> <p>10 interpreting data from types test, but I don't do</p> <p>11 those tests myself.</p> <p>12 Q. You're not an expert on the methods</p> <p>13 used by Dr. Longo or Dr. Rigler to test talc for</p> <p>14 asbestos, correct?</p> <p>15 MS. PARFITT: Mark, I would</p> <p>16 just object to the extent that those</p> <p>17 questions had previously been asked --</p> <p>18 MR. HEGARTY: Okay. All</p> <p>19 right.</p> <p>20 MS. PARFITT: -- in 2018 and</p> <p>21 '19 and '20 and '21. Thank you.</p> <p>22 BY MR. HEGARTY:</p> <p>23 Q. At the 2020 meeting, you didn't</p> <p>24 represent yourself as an expert on TEM, SEM, or</p>
<p>1 talc and asbestos or asbestos and talc or powders</p> <p>2 or elongated mineral particles, I made a point of</p> <p>3 going to those sessions if they didn't conflict.</p> <p>4 In other words, sometimes, unfortunately, the</p> <p>5 meeting is large and a poster session presenter is</p> <p>6 at the same time as a platform, and I may not get</p> <p>7 to speak to the person in person.</p> <p>8 Q. Do you have any planned</p> <p>9 presentations or meetings with FDA regarding talc</p> <p>10 or asbestos?</p> <p>11 MS. PARFITT: Objection.</p> <p>12 Form.</p> <p>13 THE WITNESS: As I sit here</p> <p>14 right now, no.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. The focus of the FDA's meeting in</p> <p>17 February 2020 was on testing for asbestos,</p> <p>18 correct?</p> <p>19 A. Well, it was actually focused -- it</p> <p>20 was part of that, but the topic at the meeting was</p> <p>21 the toxicity of elongated mineral particles as</p> <p>22 well. There were presentations done by government</p> <p>23 scientists on that general issue. So particles</p> <p>24 and fibers, the mineral fibers, which asbestos is</p>	<p>1 XRD, correct?</p> <p>2 A. No. My comments were not directed</p> <p>3 to that specific topic, and there were others that</p> <p>4 did that. That is correct.</p> <p>5 Q. Since your MDL deposition in 2018,</p> <p>6 have you had any communications with Health Canada</p> <p>7 regarding any talcum powder products?</p> <p>8 A. I participated in a virtual press</p> <p>9 conference that Health Canada held after they</p> <p>10 released their -- their final risk assessment. So</p> <p>11 I didn't -- I didn't speak up orally at the</p> <p>12 meeting, but they were there and they were on the</p> <p>13 phone. I could have -- could have spoken up.</p> <p>14 They did -- they did ask questions. It was</p> <p>15 mainly, though, for the -- I believe it was to</p> <p>16 invite the press to ask questions.</p> <p>17 Q. Any other communication with Health</p> <p>18 Canada since your deposition in December 2018</p> <p>19 besides that one?</p> <p>20 A. Not on talc, no. I have interacted</p> <p>21 with Health Canada for some of my clients on other</p> <p>22 issues.</p> <p>23 Q. Have you communicated with any</p> <p>24 foreign regulatory authority about talcum powder</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 78	Page 80
<p>1 since your December 2018 MDL deposition?</p> <p>2 A. Other than the meeting at FDA, no.</p> <p>3 Q. Have you spoken to any expert in</p> <p>4 these cases -- the MDL, the Swann case -- about</p> <p>5 their amended MDL reports or disclosures in the</p> <p>6 Swann case?</p> <p>7 A. No.</p> <p>8 Q. Have you spoken to any of the MDL</p> <p>9 plaintiffs or their family, that is, the</p> <p>10 plaintiffs identified for the bellwether cases in</p> <p>11 the MDL?</p> <p>12 A. No.</p> <p>13 Q. Do you know the names of the</p> <p>14 plaintiffs in the cases selected for the trials in</p> <p>15 the MDL?</p> <p>16 MS. PARFITT: Objection.</p> <p>17 Form.</p> <p>18 THE WITNESS: Off the top of</p> <p>19 my head, I don't. I may actually have</p> <p>20 heard those names before in filings --</p> <p>21 seen them in filings, but no, I can't</p> <p>22 tell you who they are.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. Do you know where any of the</p>	<p>1 have that information.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. Do you know whether any of the MDL</p> <p>4 plaintiffs saw any Johnson's Baby Powder or Shower</p> <p>5 to Shower advertisements prior to purchasing the</p> <p>6 product?</p> <p>7 MS. PARFITT: Same objection.</p> <p>8 THE WITNESS: Same answer. I</p> <p>9 couldn't answer those questions. I'm not</p> <p>10 familiar with any of their testimonies or</p> <p>11 their statements.</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. Do you know whether any of the MDL</p> <p>14 plaintiffs had a BMI over 30 or were considered</p> <p>15 overweight?</p> <p>16 MS. PARFITT: Mr. Hegarty, to</p> <p>17 the extent all these do go to</p> <p>18 case-specific issues, and I know we have</p> <p>19 limited time. So I'm actually trying to</p> <p>20 help you on that.</p> <p>21 MR. HEGARTY: Right.</p> <p>22 MS. PARFITT: She does not</p> <p>23 have -- so I'll make a representation.</p> <p>24 She's here as a general -- a general</p>
<p>1 named -- any of the plaintiffs named in the -- let</p> <p>2 me strike that.</p> <p>3 Do you know the names of any of the</p> <p>4 -- strike that.</p> <p>5 As to any of the plaintiffs named in</p> <p>6 the MDL bellwether cases, do you know where they</p> <p>7 lived?</p> <p>8 MS. PARFITT: Objection.</p> <p>9 Dr. Plunkett is here as a general expert</p> <p>10 witness and would not have any</p> <p>11 familiarity with the specifics of the</p> <p>12 cases.</p> <p>13 MR. HEGARTY: I know. I just</p> <p>14 need that -- I just need that from her.</p> <p>15 THE WITNESS: No, I'm not a</p> <p>16 case-specific expert. I don't know their</p> <p>17 names or where they live, no.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. Do you have any knowledge of each of</p> <p>20 the plaintiffs use of Baby Powder or Shower to</p> <p>21 Shower?</p> <p>22 MS. PARFITT: Same objection.</p> <p>23 THE WITNESS: Same answer.</p> <p>24 No, I'm not case-specific. So I do not</p>	<p>1 expert witness and has no information</p> <p>2 about the case-specific. So to some</p> <p>3 extent you may be using up your time for</p> <p>4 information she doesn't have.</p> <p>5 MR. HEGARTY: Well, and I can</p> <p>6 explain. I think there can be arguments</p> <p>7 made about whether certain testimony that</p> <p>8 might relate to advertisements generally</p> <p>9 as it pertains to these plaintiffs may</p> <p>10 become relevant where you might argue</p> <p>11 that --</p> <p>12 MS. PARFITT: Sure.</p> <p>13 MR. HEGARTY: -- testimony</p> <p>14 about an ad that the plaintiff didn't see</p> <p>15 is relevant. So -- and Dr. Plunkett does</p> <p>16 provide testimony about advertisements.</p> <p>17 So that's where I'm coming from.</p> <p>18 MS. PARFITT: Sure, but I am</p> <p>19 just trying to make it easier for us for</p> <p>20 the four hours that you have --</p> <p>21 MR. HEGARTY: Right.</p> <p>22 MS. PARFITT: -- that she has</p> <p>23 been provided no information with regard</p> <p>24 to any of the MDL witnesses or bellwether</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 82	Page 84
<p>1 cases. Absolutely none. 2 BY MR. HEGARTY: 3 Q. So is it correct, Dr. Plunkett, that 4 you've been provided no information about any of 5 the MDL plaintiffs; is that correct? 6 A. That's correct. 7 Q. Is it also correct that you have not 8 been provided any information about Ms. Swann in 9 the Swann case? 10 A. That's correct. 11 Q. That would include anything about 12 their demographics or their physical health or 13 even their race? 14 A. No. The only thing I know -- the 15 only thing I am aware of by their name whether 16 they're women (laugh), and obviously the one 17 question I always ask attorneys when I start 18 litigation is, these are all cases about ovarian 19 cancer? Yes. Yes, that's what I know, but I 20 don't know the specific women's cancer or when it 21 occurred or any of those kinds of things. 22 Q. Do you know of any testing that was 23 done on either their tissues or any of the product 24 that they used?</p>	<p>1 which we will go ahead and mark as -- 2 MS. PARFITT: And for ease, 3 Mark, we have a copy of it in front of 4 her. 5 THE WITNESS: You want to mark 6 this? 7 MR. HEGARTY: Okay. I'm 8 trying to get rid of some of the copies 9 that I brought. 10 MS. PARFITT: That's okay. We 11 can hold on to them. 12 MR. HEGARTY: I'm going to 13 mark as Exhibit No. 6 a copy of your 14 June 30, 2021 MDL report, amended MDL 15 report. (Document marked for 16 identification as Plunkett Exhibit 6.) 17 BY MR. HEGARTY: 18 Q. Would you just take a quick look at 19 that and tell me whether that does appear to be 20 your June 30, 2021 amended MDL report? 21 A. Yes, it is. 22 Q. And do you have a copy of that 23 report in front of you?</p>
<p>1 MS. PARFITT: Objection. 2 THE WITNESS: In the MDL? 3 No, I do not. 4 BY MR. HEGARTY: 5 Q. In the MDL. 6 And I was going to ask you 7 particularly about any testing that Dr. Godleski 8 has done. 9 Are you familiar -- are you aware of 10 any of the testing he has done as to the MDL 11 plaintiffs? 12 MS. PARFITT: Same objection. 13 THE WITNESS: No, I am not. 14 I am not aware. 15 BY MR. HEGARTY: 16 Q. Okay. Same question as to 17 Ms. Swann. 18 Do you know of any testing that 19 Dr. Godleski did as to Ms. Swann's tissues? 20 MS. PARFITT: Same objection. 21 THE WITNESS: Same answer. 22 No, I do not. 23 BY MR. HEGARTY: 24 Q. With regard to your MDL report,</p>	<p>1 A. I do. I don't know that I have all 2 the appendices, though. You have all the 3 appendices. 4 Q. Did you make any notations or 5 writing on the copy that's sitting in front of 6 you? 7 A. No, I do not. 8 Q. If I looked through that, I wouldn't 9 see anything different than what I marked as 10 Exhibit No. 6? 11 A. Other than it does not have the 12 appendices pages. I have the title page 13 "Appendix C," but I didn't bother to kill the tree 14 (laugh) to print out all those pages, but yes. 15 Q. And with regard to the -- do you 16 have anything else in the notebook in front of you 17 besides the amended MDL report? 18 A. I have the original MDL report. 19 That one actually does have appendices with it. I 20 have the Health Canada final screening assessment, 21 and I have the Taher paper that's referred to, 22 which actually is not new since, but certainly I 23 brought that because it is discussed within the 24 Health Canada assessment.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 86	Page 88
<p>1 MR. HEGARTY: You mentioned 2 your prior MDL report, and I'm going to 3 mark as Exhibit No. 7 your November 16, 4 2018 MDL report. 5 (Document marked for 6 identification as Plunkett Exhibit 7.) 7 BY MR. HEGARTY: 8 Q. Is that the initial MDL report that 9 you prepared for the MDL? 10 A. Yes, that's correct. 11 MR. HEGARTY: I'm going to 12 next mark as Exhibit No. 8 a supplemental 13 expert report dated August 29, 2018. 14 (Document marked for 15 identification as Plunkett Exhibit 8.) 16 BY MR. HEGARTY: 17 Q. Can you tell me what that document 18 is? 19 A. So this was a report I repaired -- 20 prepared before the MDL report, but after my 21 initial report in litigation, which I believe 22 was -- 23 MS. PARFITT: Thank you, Mark. 24 THE WITNESS: -- in 2016 based</p>	<p>1 PubMed documents. 2 Q. Do you recall what search terms you 3 used in the PubMed search? 4 A. Sure. PubMed I was just very 5 general because I do those -- those searches about 6 every four or five months. I did just did "talc" 7 and then I just looked -- I organize it 8 chronologically and I just looked at things since 9 the last time I had -- I had done -- done research 10 or done a search. 11 Q. When you say "looked at things," how 12 do you go about looking at this, the search 13 results that you get from that broad of a search? 14 A. So I start -- I do it on my 15 computer. I start with the titles and the 16 authors. I look at what's there and then I click 17 to the abstract, if there is one available. The 18 good thing since the pandemic is almost every 19 journal provides almost every article free now. 20 So in the -- in the research that I 21 did before the amended MDL report, in addition to 22 the abstract, I usually almost always able to see 23 the full article. 24 Q. Is the time that you spent doing</p>
<p>1 on having -- having additional documents 2 that were reviewed. Well, some of it was 3 new discovery and then some are new 4 things that I reviewed and relied upon, 5 and then some additional research that I 6 had done since the original report 7 looking historically back in time at 8 notice and what was known to the company. 9 BY MR. HEGARTY: 10 Q. Were you asked to do anything 11 different in preparing your amended MDL report 12 than you had been asked to do in preparing your 13 original MDL report? 14 A. No. 15 Q. Did you do any medical or scientific 16 literature research for your amended report? 17 A. Yes. 18 Q. What databases did you search, if 19 any? 20 A. I searched through the PubMed 21 website and then I also did -- I think I did -- I 22 may have even done a Google -- just a Google query 23 on talc and ovarian cancer to see if there was 24 anything that didn't show up on the -- in the</p>	<p>1 that search reflected in the invoices that we 2 marked? 3 A. Yes. The time for review of 4 documents before I actually prepared the report, 5 but then during that month I was preparing the 6 report, that would have been also looking again at 7 the -- at it to see if there's anything new in the 8 literature that showed up in June of 2021. 9 Q. Did plaintiff's counsel provide you 10 with any literature or other materials that you 11 reviewed for your 2021 amended MDL report? 12 A. Not literature, but let me -- which 13 one is it? Number 6? 14 Q. Number 6. 15 A. Yeah. I believe there was some new 16 deposition testimony. 17 MR. HEGARTY: And I have a 18 copy. 19 MS. PARFITT: Thanks, Mark. 20 THE WITNESS: Let's see. So 21 if you go to page -- pages 67 through 69 22 in the Appendix C where there's 23 deposition testimony. If there's 24 deposition -- there's some depositions</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 90	Page 92
<p>1 here that occurred after my original MDL 2 report that would have been provided 3 through counsel. Actually, all of these 4 documents on here always were provided 5 through counsel.</p> <p>6 BY MR. HEGARTY:</p> <p>7 Q. When you say "all the documents on 8 here," what do you mean?</p> <p>9 A. I mean that I have a transcript. So 10 anything on the transcript page would have been 11 provided through counsel, and I know that there 12 are documents on here that I saw -- well, for 13 example, there was one -- there were two 14 depositions of Steven Mann taken in April of 2021. 15 So that's something that I didn't have, obviously, 16 in 2018, right?</p> <p>17 And then there's also, even though 18 there's a 2019 Alex Gorsky deposition, there's 19 also deposition and exhibits from trial testimony 20 of Alex Gorsky in a couple of trials. So towards 21 the end of here, there's a number of things that 22 are since my MDL report.</p> <p>23 Q. Did you request any specific 24 depositions or were those depositions just</p>	<p>1 certainly I segregate. So, for example, articles, 2 when I add them to my report, those are ones that -- 3 I've given weight to in terms I believe they're -- 4 they're relevant to the opinions I've expressed in 5 the case.</p> <p>6 But you're asking me for -- I mean, 7 my original MDL, the deposition, we spent a lot of 8 time with Ms. Branscome I believe her name was --</p> <p>9 Q. Correct.</p> <p>10 A. -- going through this issue.</p> <p>11 There's nothing different today that I did that is 12 different from what I did then.</p> <p>13 Q. And that applies to both assessing 14 the strengths and weaknesses and assigning a 15 weight to the articles; is that correct?</p> <p>16 A. That's correct.</p> <p>17 Q. And did you do either of those in 18 some written format in some other document besides 19 in your MDL report or your amended MDL report?</p> <p>20 A. No.</p> <p>21 Q. Did you perform any search of 22 company documents for your amended report?</p> <p>23 A. Yes, I did. I requested some 24 searches be done specifically on a couple of</p>
<p>1 provided to you by counsel?</p> <p>2 A. I requested any new depositions. 3 Actually, it's a standing request. If there's any 4 new depositions in the areas I typically cover, 5 for example, or someone who has given a deposition 6 before that now gives a second deposition, another 7 deposition, I ask for that.</p> <p>8 I also, for example, after trials 9 that I've been at, if I know a certain person has 10 testified and it covers, overlaps with my area, I 11 may ask for that.</p> <p>12 Q. With regard to the new literature 13 that you identified, did you assess the strengths 14 and weaknesses of each article?</p> <p>15 A. Same -- same way I always do, yes. 16 I applied my -- my -- the same method I would to 17 the new articles just as I did to the old 18 articles.</p> <p>19 Q. And as to the new articles that you 20 cited in your amended MDL report, did you assign a 21 weight as it relates to your risk assessment to 22 those new articles?</p> <p>23 A. In the same way that I've done it 24 before. It's not a written document, but</p>	<p>1 issues that I knew there had been additional trial 2 testimony about or things I had heard about in 3 transcripts or read in transcripts. 4 So when I asked for exhibits to 5 trials or depositions, I asked for additional 6 searches to be done around, for example, the 7 issues of asbestos in talc, some additional 8 information or additional data. Even documents 9 that actually may have been in the original 10 discovery ones that I had not focused on before. 11 So I spent a little more time 12 focusing on some of that just because I had seen 13 that come up, for example, in the Forrest trial 14 that I participated in and some other -- other 15 depositions I participated in. 16 Q. Is the document database, that is 17 the document database of produced documents by 18 Johnson & Johnson, something that you have access 19 to? 20 A. I do and I will do searches, but in 21 the case of this most recent searches, I asked for 22 others to help me. And I say "others." I asked 23 the attorneys to do searches for these kinds of 24 documents.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 94	Page 96
<p>1 Q. So with regard to your amended MDL 2 report as it relates to searches across company 3 documents, you asked the lawyers to do those 4 searches. 5 You did not do them personally? 6 MS. PARFITT: Objection. 7 THE WITNESS: Well, I was -- 8 MS. PARFITT: Misstates her 9 testimony. 10 THE WITNESS: So I gave 11 directions to the attorneys on what to 12 look for in terms of keywords as in 13 topics, but no, I did not physically do. 14 But what I do do, though, is 15 I'm given a Dropbox with lots of 16 documents in it, and then I go through 17 those myself and determine which ones I 18 think are relevant to add to my reliance 19 list. 20 For example, if there are 21 things that show up on my reliance list 22 as new, those are all things I've said 23 that I believe were ones that I would 24 like to have added to my Appendix C.</p>	<p>1 MR. HEGARTY: Correct. 2 BY MR. HEGARTY: 3 Q. This would be in preparing your 4 amended report. 5 A. Sure. Yes, I was looking for 6 documents that discussed asbestos in talc powder. 7 Talc powder. I also was looking for documents 8 that talked about corn starch, additional corn 9 starch documents. What the company was doing in 10 terms of development of corn starch. 11 And then I think I also searched for 12 some names of individuals that I had seen given 13 deposition testimony. I think we did -- I did 14 some additional looking for documents from Steve 15 Mann, from Steve Mann based on some of the 16 testimony he gave more recently but also in the 17 past. He's been on different e-mails documents 18 that I've relied upon and presented at trial. 19 I think we searched for -- I think I 20 searched for Kathleen Wille again. I think I 21 searched also for -- I'm trying to think who else 22 was in there. Mann. Wille. 23 Let me look again on this. I might 24 be able to tell you by looking at it.</p>
Page 95	Page 97
<p>1 BY MR. HEGARTY: 2 Q. As far as the company documents that 3 you have access to, is this via a hard drive? 4 A. It's computer. I mean, there's a -- 5 the attorneys have a large database that I've been 6 provided access to, and I can do that myself, 7 okay? So it's all electronic, but then I can 8 print out documents if I want, obviously, download 9 and print out. 10 Q. Do you know whether this database 11 that you're provided access to has been updated as 12 new documents have been produced? 13 A. It's my understanding, yes, and 14 that's one of the reasons why every once in a 15 while I get a communication from the attorneys 16 that there's been new -- new documents that have 17 been provided through -- from Johnson & Johnson to 18 plaintiff's counsel. 19 Q. Do you recall the search terms that 20 you provided to counsel for plaintiffs to have to 21 use to search across the company document 22 databases? 23 MS. PARFITT: And this would 24 be between the '18 and the '21 report.</p>	<p>1 Those are the two I can recall. I 2 mean, it's possible I also searched nettle -- 3 Nettesheim but... 4 Q. When you get the results back from 5 the document searches, how do you go about 6 reviewing those documents? 7 A. So they're provided to -- the 8 documents themselves are put into a Dropbox. So 9 where I can -- where I don't have to go physically 10 to their offices. They share them electronically, 11 and then I review them. So they're put in just 12 individual folders for me, Dr. Plunkett's request 13 or whatever and the date. 14 And then I go through and open them, 15 read them, determine if there's ones that I 16 believe are ones I would, for example, want to 17 cite in the amended report. Ones that I think 18 need to be added to Appendix C. Or there may be 19 some that I feel are not really relevant to the 20 opinions I'm expressing. So they may not 21 necessarily go in, or they may. You know, it just 22 depends. 23 I may just say, dump them all in. 24 Sometimes I don't, though. I will say, just go</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 98	Page 100
<p>1 for this subsection of documents because those 2 search terms weren't helpful. You know, sometimes 3 I'll give a search term and what I get back is not 4 helpful in terms of the kinds of testimony or the 5 kinds of opinions that I've expressed in the case. 6 Q. Do you read the entirety of the -- 7 or did you read the entirety of the documents that 8 were provided to you from this, the searches? 9 MS. PARFITT: Objection. 10 Form. 11 THE WITNESS: In most of them 12 I do. Some of them I don't. And 13 sometimes you can tell from the first 14 page. If it's a 40-page document and 15 it's something that just isn't really 16 relevant to the question I'm asking, then 17 I may not read all 40 pages, but I 18 typically do. 19 Majority of the documents that 20 I reviewed and added to the amended 21 expert report were -- were shorter than 22 that, though. So I would have looked or 23 skimmed through quickly the entire 24 document.</p>	<p>1 I use the term "e.g., for example, that means 2 it's not every document that I reviewed that's 3 supportive, but those are kind of the ones I think 4 really make the point or very -- of the -- of the 5 statement I am -- I am making in that sentence 6 where I'm citing to it. 7 Q. Since your MDL report, initial MDL 8 report, and deposition in 2018, have you done any 9 additional work on heavy metals and ovarian cancer 10 risk? 11 A. I have not written any additional 12 reports, other than what you have, but I certainly 13 have looked, for example, at some of the 14 literature that might have come up. Yes, that's 15 possible I have looked at that. I certainly did 16 -- I also did at one point -- and I want to say it 17 was in response to questions asked at a deposition 18 since my MDL deposition. One of the state cases. 19 I believe I did go and look at some 20 of the IARC documents for the individual metals to 21 see. Because I was asked questions somewhere 22 about, well, can you point me to where it says 23 ovarian cancer in that document? So I did go on 24 some of those and look and to see what was there.</p>
<p>1 BY MR. HEGARTY: 2 Q. And in your amended expert report, 3 you've identified some new company documents and 4 you've also included some new company documents in 5 your list of materials considered. 6 What is the distinction between the 7 documents cited in the report versus the documents 8 in the list of materials considered? 9 A. So the ones cited in the report are 10 being cited for a specific statement I'm making. 11 I believe that document is supportive of that 12 specific statement. There are also documents 13 that -- that I believe might be ones that would be 14 potentially used at trial. I mean, some of those 15 you may recognize, the ones we have used in direct 16 testimony at trial before. 17 And then the ones considered may be 18 ones that I may decide to use at trial, for 19 example, may ask to be added to the list, or they 20 may just be another. I have 10 documents that 21 talk about the same thing. So I cite one or two, 22 but not all of them. 23 You'll notice -- I think I've said 24 this to you before -- when I cite to documents, if</p>	<p>1 Q. Since your MDL deposition December 2 2018, have you done any additional work on 3 fragrances and ovarian cancer risk? 4 A. In the -- I need to ask a question. 5 Q. Sure. 6 A. I need to look. In the 2018 report, 7 the list of fragrances I had was long. I do -- 8 yes, there has been since that time a shorter 9 list, I believe, that has shown up on the website 10 where they've cut -- when I say "they," the 11 company has gone to -- gone to the work, I 12 believe, or they've -- they've started taking some 13 things out of their fragrance, and they 14 reformulated their fragrance. 15 Now, I don't have confidential 16 documents that tells me that's the only thing in 17 there, but that list is now much shorter than the 18 list that I relied upon for my -- my MDL report. 19 So that research I have done. I have gone to see 20 what has been said, and I am aware that today 21 they've changed their fragrance constituents as 22 far as what's in the fragrance. 23 Q. Have you done anything specific to 24 give your opinions as reflected in your June 2021</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 102	Page 104
<p>1 amended MDL report that's not reflected by the 2 report itself?</p> <p>3 A. I don't recall. No, I don't -- I 4 don't believe so. Because I believe that's been 5 -- if that isn't -- that isn't -- if that issue on 6 the less fragrances wasn't discussed in the 7 report, I would say to you I know I discussed -- 8 we discussed it at a deposition since the MDL 9 report, but I don't recall if I had that 10 discussion. I'd have to look.</p> <p>11 Q. I guess my question is: Are there 12 any opinions or other work --</p> <p>13 A. Oh.</p> <p>14 Q. -- that you have that you intend to 15 offer in the MDL that's not -- that are not 16 contained in your amended MDL report?</p> <p>17 A. No. I have attempted to give you -- 18 that's why I'm here today. To tell you that this 19 is the opinions that I would be prepared to 20 express in the MDL at this point in time based 21 upon what is in the report or any of the documents 22 that are, obviously, in my appendices.</p> <p>23 Q. So is it a correct statement that 24 your amended MDL report contains all of your</p>	<p>1 restate that. 2 To the extent you intend to testify 3 about any company witness testimony, this would be 4 set out in your amended MDL report or your prior 5 deposition testimony, correct?</p> <p>6 MS. PARFITT: Or trial 7 testimony.</p> <p>8 BY MR. HEGARTY:</p> <p>9 Q. Or trial testimony?</p> <p>10 A. Or trial testimony. Yes, that's correct.</p> <p>12 Q. Is the same true for internal 13 company documents? To the extent you intend to 14 testify about any internal company document, this 15 would be set out in your amended MDL report or 16 your deposition or trial testimony?</p> <p>17 A. Yes. As we sit here today, that is correct.</p> <p>19 MS. PARFITT: Mark, could we 20 take a short bio break?</p> <p>21 MR. HEGARTY: Yes.</p> <p>22 MS. PARFITT: Okay.</p> <p>23 MR. HEGARTY: Yes. Let's go 24 ahead and take that break.</p>
Page 103	Page 105
<p>1 current opinions and reliance materials?</p> <p>2 A. Yes, that's true.</p> <p>3 Q. To the extent you --</p> <p>4 A. Well, does it cite to? With the -- 5 with the caveat, I always say that also anything 6 that I've said or stated within testimony that I 7 believe is incorporated into this, but if it's 8 not, I should point that out. Because I don't 9 know that I list that as a separate appendix, but 10 yes.</p> <p>11 Q. You're talking about current 12 opinions and reliance materials that you've 13 provided during your deposition testimony?</p> <p>14 A. Or trial testimony.</p> <p>15 Q. Or trial testimony?</p> <p>16 A. Yes, that's correct.</p> <p>17 Q. Between the deposition testimony, 18 trial testimony, and your amended MDL report, that 19 should contain all of your current opinions and 20 reliance materials?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. To the extent you intend to testify 23 about any company witness testimony that's 24 identified in your report, this would be -- let me</p>	<p>1 MS. PARFITT: Is it a good place?</p> <p>3 MR. HEGARTY: Yes, that's 4 okay.</p> <p>5 (Recess: 10:35 a.m. - 6 10:50 a.m.)</p> <p>7 MR. HEGARTY: We're back on 8 the record.</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. Dr. Plunkett, we've been talking 11 about your June 2021 amended MDL report, and in 12 that report, did you set out any analysis that's 13 specific to the subtypes of ovarian cancer for the 14 plaintiffs in this case -- in these cases?</p> <p>15 A. No.</p> <p>16 Q. Did you do any type of risk 17 assessment or analysis by subtype based on the 18 types of cancers that the MDL plaintiffs have?</p> <p>19 MS. PARFITT: Objection.</p> <p>20 Form.</p> <p>21 THE WITNESS: No. I'm not 22 case-specific.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. Do you understand that in the MDL</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 106	Page 108
<p>1 there are two Johnson & Johnson companies in the 2 case: Johnson & Johnson Consumer, Inc. and Johnson 3 & Johnson?</p> <p>4 A. Yes, I believe that's true. I've 5 seen that on the pleadings, yes.</p> <p>6 Q. Does your amended report set out any 7 analysis specific to each defendant?</p> <p>8 A. No. Some documents may relate only 9 to one entity in terms of the way it's listed, but 10 to me it's all Johnson & Johnson generally. 11 Everything applies to both, in my mind, in terms 12 of my opinions.</p> <p>13 Q. Does your amended report set out an 14 analysis where you address separately Johnson's 15 Baby Powder and Shower to Shower?</p> <p>16 A. No, does not.</p> <p>17 Q. Your report at the end includes 18 references to other companies' labels. 19 Do you recall that?</p> <p>20 A. Yes.</p> <p>21 Q. Since your MDL deposition in 22 December of 2018, have you done any analysis of 23 any other company's knowledge and reason for 24 including warnings on their talcum powder product?</p>	<p>1 follow along with. 2 (Document marked for 3 identification as Plunkett Exhibit 9.)</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. With regard to the Federal Register 6 document listed there, do you recall if there's 7 anything in that Federal Register document that 8 you rely upon for your opinions in your MDL report 9 or amended MDL report?</p> <p>10 A. Why. It's part of -- it has been 11 part of my reliance materials for a long time. I 12 need to see if I cite to this specific one. You 13 want me to look and see?</p> <p>14 Q. Let me ask you about that. 15 The Federal Register document is 300 16 pages, but within that there's a reference to 17 antiperspirant drug products for over-the-counter 18 human use. 19 Is that the part of that document to 20 which you are referring to? 21 A. I'd have to -- that may very well 22 be, but I'd have to pull that one out to tell you 23 that for sure. 24 Q. We'll see if I have time and I'll</p>
<p>1 A. No, I have not because I would have 2 done that based upon having access to their 3 internal company documents or conversations with 4 individuals. So, no, I have not done that.</p> <p>5 Q. You have not since your MDL 6 deposition looked at any internal company 7 documents or spoken to anyone at these companies 8 who put ovarian cancer warnings on their talcum 9 powder products?</p> <p>10 A. No, I have not.</p> <p>11 Q. You have testified several times 12 that you're not a causation witness. 13 With regard to your amended MDL 14 report, is that still the case?</p> <p>15 A. Yes, I'm not doing general 16 causation.</p> <p>17 MR. HEGARTY: We were provided 18 prior to your deposition some materials 19 that you have reviewed, and we've looked 20 at several of those so far. 21 And I want to mark as Exhibit 22 No. 9 the printout of a Dropbox we were 23 provided which contains the first page of 24 the documents that, hopefully, we can</p>	<p>1 come back to that. 2 You make several references -- 3 strike that. 4 Within Exhibit No. 9, there are 5 several references to cosmetovigilance. 6 Is there anything in those documents 7 that you rely upon for your amended MDL report? 8 Because I didn't see anything cited to those in 9 your amended MDL report. 10 A. I don't have a specific reference to 11 these documents, but they are relevant to my 12 opinions related to the responsibility of a 13 company. 14 So if you read these documents, they 15 talk about what companies can do in terms of 16 setting up systems and procedures within the 17 company to look for adverse events and safety 18 concerns that arise after the drug has been -- I'm 19 sorry, not the drug -- after the product has 20 entered the marketplace. 21 MR. HEGARTY: I'll mark as 22 Exhibit No. 10 the references, the 23 document that says "All References and 24 Materials." It's the first row to the</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 110	Page 112
<p>1 far right. 2 (Document marked for 3 identification as Plunkett Exhibit 10.) 4 THE WITNESS: Uh-huh. 5 BY MR. HEGARTY: 6 Q. Can you tell me what Exhibit No. 10 7 is or what it represents? 8 A. Yeah, I've seen that. 9 MS. PARFITT: The far right. 10 THE WITNESS: Yeah. Yeah. 11 Yeah. Yeah. 12 So can you -- can you provide 13 me with the notice of deposition? That 14 might make it easier because these -- 15 that's what these are responsive to, and 16 I might be able to tell you by looking at 17 what you asked for. Do you understand? 18 BY MR. HEGARTY: 19 Q. I do. 20 A. Because -- 21 Q. Sitting here -- but looking at the 22 document, you can't tell what it is? What it 23 represents? 24 A. These are clearly internal company</p>	<p>1 what that is. Things that I have looked at more 2 recently. 3 Q. I'll mark -- 4 A. Because I continue to work on this 5 because I have other cases coming up and... 6 MR. HEGARTY: I'll mark next 7 as Exhibit No. 12 a copy of the Boorman 8 article, which is not new, but it is 9 included on the materials that were 10 provided to us for purposes of this 11 deposition. 12 (Document marked for 13 identification as Plunkett Exhibit 12.) 14 BY MR. HEGARTY: 15 Q. Is there a reason that we were 16 provided the Boorman article versus other articles 17 that you referred to before or that are dated well 18 before your MDL report? 19 A. No. This -- this is -- as far as I 20 know, this has been in my materials for a long 21 time. So... 22 MS. PARFITT: And, Mark, if I 23 can just, maybe it will be helpful. 24 MR. HEGARTY: Sure.</p>
Page 111	Page 113
<p>1 documents that are within my -- within my reliance 2 materials. That I can tell by just general 3 looking at what they are. But in order to tell 4 you which -- what it's responsive to, it's 5 responsive to something you asked for. So that's 6 why I said if you show me -- 7 Q. Okay. 8 A. -- your notice of deposition 9 subpoena, I can maybe answer that more fully. 10 Q. Okay. Maybe we'll come back when I 11 have some time. 12 A. Okay. 13 MR. HEGARTY: There's another 14 document I want to show you that was 15 provided that I'll mark as Exhibit 16 No. 11. 17 (Document marked for 18 identification as Plunkett Exhibit 11.) 19 BY MR. HEGARTY: 20 Q. Can you tell me what that document 21 is? 22 A. Yes. So this is a document looking 23 at things that I have considered more recently. 24 So up till today essentially, right? So that's</p>	<p>1 MS. PARFITT: What happened 2 is, because there were other reliance 3 lists, we tried to cross-check in the 4 MDL, and it may have been that for state 5 court cases or even back as early as the 6 original report, there were documents 7 that were provided to you and we 8 duplicated them out of an abundance of 9 caution. 10 MR. HEGARTY: Okay. 11 MS. PARFITT: So feel free to 12 inquire about any particular one, but 13 that's why you see some that are, 14 frankly, redundant that had been provided 15 to you earlier. 16 BY MR. HEGARTY: 17 Q. If you would turn to the second to 18 the last page of Exhibit No. 9, there is a 19 document in the lower left-hand corner P1851, 20 which is "Johnson's Baby Talcum Powder: A 21 Comprehensive Review, March 17, 2020." 22 Do you recall that document? 23 A. Yes. 24 Q. Have you read that document?</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 114	Page 116
<p>1 A. I have. Now I have, yes. 2 Q. When did you first read it? 3 A. First read it as it was -- as with 4 respect to trial testimony in the last case by 5 Dr. Kuffner. So it was made -- I was made aware 6 of that document. 7 Q. Have you done an assessment of any 8 strengths and weaknesses about that document? 9 A. I formed some opinions about 10 strengths and weaknesses, yes, after reading his 11 trial testimony and that document. 12 Q. What are those opinions? 13 A. So consistent with what I have, I 14 think, already testified in the past, that 15 particular document and their review is, again, in 16 my opinion, not consistent with what the weight of 17 the evidence says. So I disagree with the 18 conclusions drawn. They're certainly -- many of 19 the studies and some of the information, they're 20 some of the same ones that I have reviewed. 21 I also in Dr. Kuffner's trial 22 testimony where he discusses his review, I 23 disagree with some of the statements he makes 24 about what individual pieces of evidence may or</p>	<p>1 point or topical areas of opinions as it relates 2 to the comprehensive review document, first of 3 all, and then second as it relates to 4 Dr. Kuffner's testimony? 5 A. I think I've told you the general -- 6 my general issues. I mean, if you want to go line 7 by line through it, we can talk about it. 8 Q. Probably don't have time to do that. 9 A. Yeah. I'm sorry. 10 Q. So are you able to just give me the 11 subject areas of opinions that we have not already 12 covered. 13 A. So I disagree with some of the 14 discussion in there when you go to the sections 15 where they talk about the weight of the evidence 16 from the EPI studies, the weight of the evidence 17 from some of the animal work. I mean, if you've 18 read my report, you know that I don't agree with 19 some of the conclusions that are drawn in that -- 20 in that review. Absolutely. 21 The issues related -- I think he 22 covers -- covers migration, for example. We have 23 a disagreement about that as well. 24 And then on Dr. Kuffner's trial</p>
<p>1 may not mean. 2 I mean, if you want -- it's going to 3 be a long discussion, but if you want to go 4 through. I mean, essentially I disagree with how 5 he -- how he describes -- how he looks at the 6 results of the Canadian final safety assessment 7 versus what other -- other assessments may have 8 been done. 9 The Health Canada assessment is a 10 much more comprehensive, in-depth assessment 11 across the literature than, for example, anything 12 that you find on the NCI website or you find even 13 done by the CIR when they did their review. And 14 those are opinions I've already expressed to you 15 about the limitations of those. 16 But I think that that testimony and 17 that document are, in my view, additional evidence 18 for the fact that the company is not recognizing 19 or refuses to recognize the importance of the 20 information that is available to the hazard of 21 their product and the need to have provided for 22 years a warning to women or consumers about the 23 use of the product. 24 Q. Do you have any other sort of bullet</p>	<p>1 testimony, you know, I just disagree with the 2 conclusions he draws about it. 3 I also would point out that it's 4 very clear that he himself did not do the review 5 of those individual pieces of evidence. In other 6 words, he -- he talks about he gave it to some 7 epidemiologist to look at it or this person to 8 look at it. 9 So, you know, I just -- I disagree 10 with what he says because I don't believe he has 11 the -- has done the in-depth analysis, for 12 example, that I've done of each of those pieces of 13 evidence. 14 Q. With regard to the comprehensive 15 review document, did you find anything that you 16 found to be wrong, mistaken, any omissions that 17 you thought should have been included, or anything 18 along those lines? 19 MS. PARFITT: Okay. And I'll 20 just object to the very broad nature of 21 that question and Dr. Plunkett's ability 22 to actually address that with any 23 specificity. 24 THE WITNESS: Yeah. So as I</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 118	Page 120
<p>1 sit here today, I would not be able to 2 give you that. I haven't -- again, this 3 is something I just got in the last week 4 after the trial in St. Louis. 5 So I haven't had an 6 opportunity to necessarily cite to you 7 everything that I would point to, but 8 certainly I think I've given you an 9 understanding of what I believe about 10 that document.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. Right.</p> <p>13 A. I don't believe it's an accurate 14 reflection of the weight of the evidence. I don't 15 believe that -- I don't agree with some of the 16 assertions he makes.</p> <p>17 I am familiar with Dr. Kuffner from 18 the Tylenol litigation, as you may be aware. So, 19 again, not surprised by some of the things I see, 20 but it's -- I don't think it's consistent with the 21 evidence in the case.</p> <p>22 Q. Yeah. But from your first review of 23 the comprehensive review, did you find anything 24 that was missing or did you find anything that you</p>	<p>1 that I have marked as an exhibit. 2 The first paragraph that I want to 3 talk about that has been revised is paragraph 22. 4 Tell me when you are there. 5 A. I am. 6 Q. Towards the end of that paragraph, 7 you added the sentence beginning: "It also is 8 important to note." 9 Do you see that sentence? 10 A. Yes. 11 Q. With regard to the statement in that 12 sentence that "use of the term 'hazard' rather 13 than 'risk' by FDA in its cosmetic labeling 14 standard means that the likelihood of the harm 15 being discussed (i.e., cancer) does not need to be 16 understood; it only requires that the inherent 17 properties of the substance indicate the substance 18 is capable of harm," why did you add this sentence 19 to your report? 20 A. Because during trial testimony and 21 questions asked by defense, it was very clear that 22 this was an important distinction to make. In 23 other words, the standard for warnings for a 24 cosmetic product are different than the standard</p>
Page 119	Page 121
<p>1 recall here today that was a mistake or error? 2 MS. PARFITT: Again, objection 3 to the very broad nature of that question 4 and Dr. Plunkett's ability to answer with 5 any specificity.</p> <p>6 THE WITNESS: Yeah. I haven't 7 done a side-by-side to see if everything 8 he cites is everything I've cited and 9 that's -- I think that's answers part of 10 your question. 11 And I would reserve the right 12 to do that. I just haven't had a chance 13 to do that yet.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. Okay.</p> <p>16 A. And certainly I'll make you aware if 17 I have a new opinion about this area.</p> <p>18 Q. I want to now turn to your MDL 19 report, which we have marked as Exhibit 6, I 20 believe.</p> <p>21 Do you have a copy in front of you?</p> <p>22 A. Yes, I do.</p> <p>23 Q. And feel free to work from your -- 24 the report you have in front of you or the one</p>	<p>1 for warnings for some other types of FDA-regulated 2 products where risk and understanding the 3 likelihood are more important because there's a 4 risk-benefit weighting, right? And there's no 5 risk-benefit weighting for this. 6 This sentence was added specifically 7 because I felt that in the discussion I've given 8 in trial, that this is the opinion I have 9 expressed. So I wanted to make sure. I think 10 it's important to understand. 11 Q. What does capable of causing harm 12 mean in this sentence? 13 A. It means that there is a hazard that 14 has been identified based on reliable scientific 15 evidence. So capable of causing harm means 16 that -- that it can happen, but we don't know -- 17 you don't have to know -- and this is the issue -- 18 we don't need to know that it happens one in a 19 million people, but we know that cancer can occur. 20 So it's the idea that that hazard is 21 there. The potential is there. 22 Q. When you say "does not need to be 23 understood," what do you mean? 24 A. That the likelihood. You have to --</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 122	Page 124
<p>1 you have to get the whole phrase. 2 Q. Okay. 3 A. The likelihood of the harm does not 4 need. So it's the number, the quantification of 5 that. 6 Q. You refer in that sentence to FDA's 7 "cosmetic labeling standard." 8 To what are you referring to? 9 A. Referring to 740.1, but I'm also 10 referring back to the Federal Register from where 11 they discuss this in 1975 and also back to the 12 Food, Drug, and Cosmetic Act, which talks about 13 some of the basic responsibilities of putting a 14 safe product on the market. 15 Q. And the Federal Register is 16 something that you've talked about previously? 17 A. I have, yes. 18 Q. As well as the other documents you 19 just referenced? 20 A. Yes, that's correct. 21 Q. Do you cite, though, in this part of 22 your report those other sources that you just 23 referenced? 24 Because you cite no published</p>	<p>1 from 1975. 2 Tell me what other authorities. 3 A. And if you go to the description 4 within the -- the original description within the 5 1938 law about what the standards are for 6 marketing a cosmetic. 7 And then the other one would be, I 8 cite somewhere else in this document in this 9 report the 1978 paper by Dr. Kennedy. He also 10 talks about that. 11 And then I would point you to the -- 12 the Congressional testimony in 2012 and the GAO 13 report from 1978. 14 Q. And those are otherwise referenced 15 in your amended MDL report? 16 A. They're all in here, yeah. Exactly. 17 Just not cited in this paragraph. But if you're 18 asking for the cites for that, that's what I would 19 be building from, that foundation I laid in 20 earlier paragraphs or later paragraphs in my 21 report. 22 Q. And what is your definition in this 23 sentence of "harm"? 24 A. Harm -- well, I'm referring,</p>
<p style="text-align: center;">Page 123</p> <p>1 authorities for the statement, that is -- 2 A. Where? 3 Q. Well, you say that -- you make 4 reference to the FDA's cosmetic labeling standard, 5 but you include no citation to what that standard 6 is. 7 A. Well, I'll give you 21 -- oh, I give 8 it in another part of -- I give it in another 9 part. Not in this paragraph. So I take you to 10 740.1 in another paragraph. 11 Q. Okay. 12 A. Here -- here the view of this 13 paragraph is, I'm trying to explain the issue of 14 drug labeling where there is a higher standard for 15 adding a warning to a product than there is in 16 cosmetics -- than there is for a cosmetic, and I 17 discussed this at the last trial a bit, too. It 18 is different. 19 Q. I just want to make sure that I have 20 the published authorities that you rely upon for 21 the sentence that we're talking about. 22 You mentioned 740.1. 23 A. Right. 24 Q. You mentioned a Federal Register</p>	<p style="text-align: center;">Page 125</p> <p>1 obviously, in this report to cancer, but harm 2 would be anything. Toxicity to tissues. 3 Depending upon what piece of evidence that you're 4 looking at. So harm is -- is something that is an 5 adverse response in the individual or in the 6 tissues of the individual. 7 Q. Have you published any article where 8 you set out the kind of standard that you're 9 talking about here? 10 MS. PARFITT: Objection. 11 Form. 12 BY MR. HEGARTY: 13 Q. In that added sentence. 14 A. I need to look at my -- to answer 15 that, I have to go to the CV to answer. I can do 16 that if you'd like. 17 Q. Okay. Please. 18 A. Here it is. I got it. 19 So I'm in Exhibit 4. 20 So in the general part of this 21 sentence about the difference between hazard and 22 risk, that is in some of my papers where I talk 23 about toxicity programs and testing. 24 So, for example --</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 126	Page 128
<p>1 Q. Do you have any paragraph numbers? 2 A. Oh, I'm sorry. On page 4, 3 references number 4 and 5. I'm talking about the 4 concepts of hazard versus risk in those -- in 5 those. So that's -- that's kind of generally what 6 I'm talking about here. 7 I can see if there's any other. So 8 it would be things like that in my CV. 9 In 8, I talk about hazard and risk, 10 paragraph -- that paper, too. I also talk about 11 hazard and risk in paper 9. 12 Q. Do the references you cite refer to 13 hazard and risk in the cosmetic ingredient 14 context? 15 A. They're not talking just about 16 cosmetics. They're talking about chemical 17 exposures. So which would include cosmetic 18 ingredients. So to me this sentence here, I agree 19 I reference the cosmetic labeling standard, but 20 the most important part of why I'm adding this is 21 to have people understand there's a different 22 between hazard and risk. 23 So that I'll say let me point you to 24 there for right now. There are some other</p>	<p>1 or cosmetic ingredients whose labeling applies 2 this standard or that you would hold up as an 3 example of a labeling that applies the standard 4 from this new sentence you've added? 5 MS. PARFITT: Objection. 6 Form. 7 THE WITNESS: I would say to 8 you that I hope that every marketed 9 cosmetic, indeed, applies it because 10 they're supposed to. I have worked with 11 clients that I instruct them on this 12 standard. Some of which I can't tell you 13 the names of the companies, but obviously 14 so. That's why I point to the published 15 literature because -- and then the GAO 16 report talks about this issue as well. 17 BY MR. HEGARTY: 18 Q. Based on your added statement in 19 paragraph 22, you agree that a cosmetic does not 20 need a warning about a hazard it is not capable of 21 causing, correct? 22 MS. PARFITT: Objection. 23 Form. 24 THE WITNESS: If no hazard</p>
Page 127	Page 129
<p>1 presentations that I've done on regulatory 2 paradigms, and I've talked to you about before. 3 Before. Maybe not you, maybe someone else took my 4 deposition. Where I've discussed cosmetics as 5 part of the FDA regulatory world and the 6 differences in the standard. 7 MS. PARFITT: And I would just 8 object to the extent that 9 Ms. Branscome -- 10 MR. HEGARTY: Right. 11 MS. PARFITT: -- back in her 12 deposition went at length about hazard 13 and risk and what the differences were. 14 BY MR. HEGARTY: 15 Q. With regard to the sentence we've 16 been talking about, other than what you've 17 identified so far, can you cite for me any FDA 18 authority for the labeling standard that you are 19 discussing? 20 A. Well, I would -- the Kennedy paper. 21 Kennedy was a commissioner of the FDA. So I'd 22 cite you to that as an authority, and then the 23 regulations themselves. 24 Q. Okay. Can you identify any cosmetic</p>	<p>1 exists and that has been verified by the 2 company, I would agree. 3 There is the other caveat that 4 if the company has not -- has not done 5 the assessment to look at whether there 6 is a hazard, then there is the 7 requirement to put a statement on the 8 label -- and I've talked about this 9 before -- 10 BY MR. HEGARTY: 11 Q. Sure. 12 A. -- right -- that the safety of this 13 product has not been determined. 14 Q. A related question based on your 15 added statement. 16 You agree that a cosmetic -- you 17 agree that a cosmetic does not need a warning 18 about a hazard objectively it is not capable of 19 causing, correct? 20 MS. PARFITT: Objection. 21 THE WITNESS: If the 22 assessment has been done to determine 23 that, yes. Again, it all has to 24 predicate back to whether or not an</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 130	Page 132
<p>1 assessment was done. 2 BY MR. HEGARTY: 3 Q. If you would turn next to paragraph 4 28 of your amended MDL report. 5 A. Okay. 6 Q. There is language in the middle of 7 that paragraph that you added beginning the "IARC 8 in its 2010 Monograph on talc"? 9 A. Yes. 10 Q. Do you see that part that you added? 11 Why did you add this language to 12 this part of your report? 13 A. Because this is consistent with 14 testimony that I've given in talc cases that I 15 have worked on, so -- since the original MDL 16 report was written and so I thought it was 17 important to clarify. Obviously based on 18 questions asked at trial, there appears to be some 19 confusion about this issue. 20 Q. This section, the section that you 21 added, describes two different types of talc. 22 First, one that may appear as fibers and second, 23 talc that has been formed as asbestosiform fibers 24 that are "very long and thin and occur in parallel</p>	<p>1 bulk samples or on an air filters, they may appear 2 to be fibres and have been identified as such. 3 Talc may also form as true mineral fibres that are 4 asbestosiform." 5 So between those two parts of that 6 addition, are those talking, in your view, about 7 two different types of talc? 8 MS. PARFITT: Objection. 9 THE WITNESS: I wouldn't say 10 two different. I would say type -- types 11 of talc if what you're referring to is 12 physical form, yes. But not -- they're 13 all talc and they're all in talcum 14 powder. 15 BY MR. HEGARTY: 16 Q. But do you agree that the sentence 17 that you added in quotations includes two -- 18 describes two different types of physical -- the 19 physical form of talc? 20 MS. PARFITT: And I would just 21 make the comment. That's not the 22 completed sentence. It goes on to say 23 "Asbestosiform describes the pattern of 24 growth." So you've referred her to just</p>
<p>1 bundles that are easily separated from each other 2 by hand pressure," correct? 3 A. That statement is there. That is 4 correct. 5 Q. In other words, do you agree that 6 the additional statement you added describes two 7 types of talc: one that appears as fibers and the 8 second that has been formed as asbestosiform fibers? 9 MS. PARFITT: You're asking 10 her if that's what that statement says? 11 MR. HEGARTY: Correct. 12 THE WITNESS: I don't think I 13 understand. 14 BY MR. HEGARTY: 15 Q. Sure. 16 A. I don't think the question is that. 17 I would agree with you that there are platy talc 18 and there's fibrous talc. If that's what you're 19 asking me, I would agree to that. 20 Q. Let me ask in a different way. 21 The way that the quoted language as 22 I read it says: 23 "Talc particles are normally 24 plate-like. When viewed under the microscope in</p>	<p>1 part of the sentence, not the complete 2 sentence. 3 MR. HEGARTY: Sure. 4 BY MR. HEGARTY: 5 Q. And what I'm trying to just 6 establish is whether, in adding this sentence, you 7 understood that the quoted material from the IARC 8 2010 Monograph is talking about two different -- 9 two different physical forms of talc. 10 MS. PARFITT: Objection. 11 THE WITNESS: I would say it 12 is -- it is referring to talc that can 13 occur in a -- in a powder physically that 14 looked different under a microscope. So, 15 in other words, they do look different 16 and they have some different physical 17 properties because of that. 18 However, all of them are 19 within talc. Talc itself is a natural 20 product that has these things within it. 21 BY MR. HEGARTY: 22 Q. And what are the physical properties 23 of the first talc they describe that where they're 24 talking about "in bulk samples or on air filters,</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 134	Page 136
<p>1 they may appear to be fibres and have been 2 identified as such"?</p> <p>3 MS. PARFITT: I would -- I'm 4 going to object. This examination with 5 regard to fibers, asbestosiform, 6 asbestosiform the pattern was all examined 7 exhaustively by Ms. Branscome back in her 8 2018 deposition. We talked about IARC 9 '87, '10, '12.</p> <p>10 So I would suggest that this 11 is material that is not new material that 12 Dr. Plunkett has examined, not only in 13 her last deposition but, frankly, in the 14 multiple trials in between that window.</p> <p>15 MR. HEGARTY: But I am 16 talking, though, about a new section 17 that's been added to this paragraph only 18 that was not there before.</p> <p>19 MS. PARFITT: Yeah, a new 20 section, but the materials precisely what 21 was addressed in the deposition. She may 22 have added that paragraph, but the 23 examination of what that paragraph states 24 was something that Dr. Plunkett was</p>	<p>1 talcum powder, silica. 2 Do you see that addition? 3 A. Yes, I do. 4 Q. Why did you add silica to your list 5 where you had not done that before? 6 A. So I don't know why it wasn't there 7 before because I believe it's in one of my earlier 8 reports before the MDL report. So if you go back 9 and look at my 2016 original report, I talk about 10 silica, and I talk about silica in my original MDL 11 report in the section on chemical constituents. I 12 think I mention it. 13 But -- so I added it just because I 14 believe that this is consistent with things I have 15 said before at trial and also consistent with, I 16 believe, my original report in 2016. 17 Q. In your original report, that was 18 not in the MDL, though, right? 19 A. No, but it formed the basis for me 20 eventually writing my MDL. All of my reports have 21 built one on the other. So certainly when I 22 started to write the original MDL report, I 23 started with my report that I believe -- am I 24 wrong on the date? I believe it's 2016 but --</p>
<p>1 exhaustively examined about.</p> <p>2 MR. HEGARTY: So is that an 3 area that we would disagree on that has 4 been covered before?</p> <p>5 MS. PARFITT: I believe it 6 would be, yes.</p> <p>7 MR. HEGARTY: Okay.</p> <p>8 MS. PARFITT: Yes.</p> <p>9 Absolutely.</p> <p>10 MR. HEGARTY: So at least for 11 now we'll -- we'll --</p> <p>12 MS. PARFITT: Put it over to 13 that category.</p> <p>14 MR. HEGARTY: -- mark that as 15 an area that we disagree on whether we 16 covered it or not.</p> <p>17 MS. PARFITT: That's fine.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. The next paragraph that I want to 20 reference is paragraph 30 in your report, and tell 21 me when you're there.</p> <p>22 A. I am.</p> <p>23 Q. About five lines down, you added to 24 that, to the list of material that you say is in</p>	<p>1 Q. 2016 -- 2 A. Yeah. 3 Q. -- is when you did a report. 4 A. Yeah, exactly. So -- so that's my 5 answer to that is I was looking. I wanted to make 6 sure that everything in this amended report was 7 consistent with things that were in my original 8 MDL report, but also consistent with any testimony 9 or discussion I may have had in throughout the 10 litigation that I participated in. 11 Q. Do you recall if in those prior 12 reports whether you did a risk analysis as it 13 relates to silica in baby powder? 14 A. So what do you mean by "a risk 15 analysis"?</p> <p>16 Q. Let me restate my question. 17 Do you recall in any prior report 18 whether you did any type of analysis of any risk 19 of ovarian cancer as it relates to silica exposure 20 in talcum powder?</p> <p>21 A. I did not do a separate risk for 22 silica as a particular constituent of baby powder 23 that drove a risk. Instead what I did with 24 silica, as I did with all of these constituents</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 138	Page 140
<p>1 listed here, is that they all contribute to the 2 risk. So, in other words, these are multiple 3 compounds that have this ability to cause 4 irritation and chronic inflammation.</p> <p>5 Q. All right. If you would look at the 6 next paragraph, paragraph 31. You added the line 7 at the end that says:</p> <p>8 "My analysis is consistent with how 9 IARC considered the cancer risks of different 10 forms of talc."</p> <p>11 Do you see that additional line?</p> <p>12 A. Yes.</p> <p>13 Q. Why did you add that additional 14 line?</p> <p>15 A. Because I believe that is consistent 16 with what I've had said at trial before when I've 17 talked about the different issues related to the 18 IARC analysis.</p> <p>19 Q. And when you say "considered the 20 cancer risks," are you saying your approach was 21 identical to IARC's approach?</p> <p>22 A. No. I'm saying that my analysis is 23 consistent in terms of the fact of identifying the 24 fact that there are multiple constituents which</p>	<p>1 Q. The next paragraph I want to talk 2 about is paragraph 33. Tell me when you are 3 there.</p> <p>4 A. I am.</p> <p>5 Q. You say towards the beginning of 6 that paragraph or you added towards the beginning 7 of that paragraph that "the data has shown that 8 powders contain variable levels of fibers, 9 including" then you added the phrase "fibrous talc 10 as well as."</p> <p>11 Do you see that addition?</p> <p>12 A. I do.</p> <p>13 Q. Whereas, before you had only said 14 "including fibers that were stated to be 15 asbestos."</p> <p>16 Why did you add that reference here?</p> <p>17 A. To make the clear distinction 18 that -- that as -- as I have discussed within my 19 testimony that there is a separate constituent 20 known as fibrous talc that is not asbestos. There 21 is asbestos fibers and then there's talc fibers, 22 and they are, indeed -- and there are in these 23 documents cited here, for example, some of the 24 internal company documents. They distinguish</p>
<p style="text-align: center;">Page 139</p> <p>1 can drive the risk.</p> <p>2 Q. Did you go and compare the materials 3 you reviewed with the materials IARC reviewed in 4 2006 to see if you had reviewed the same thing?</p> <p>5 A. I did do that. I believe I was 6 asked about that a while ago. I did initially do 7 that, yes. I looked at the literature that IARC 8 described, and obviously they don't have all the 9 literature I have because they -- the analysis 10 from 2010 was based upon literature up to 2006, 11 for example. But yes, I did do that initially.</p> <p>12 Q. And based on the data available to 13 IARC in 2006, do you agree with where IARC came 14 down at the time?</p> <p>15 MS. PARFITT: Objection. This 16 area was previously examined --</p> <p>17 MR. HEGARTY: Okay.</p> <p>18 MS. PARFITT: -- back on her 19 deposition of 12/18/19.</p> <p>20 MR. HEGARTY: Okay. I'm not 21 sure that's correct, but we'll put that 22 aside for now.</p> <p>23 MS. PARFITT: Sure. Okay.</p> <p>24 BY MR. HEGARTY:</p>	<p style="text-align: center;">Page 141</p> <p>1 between fiber amphiboles within talc, which they 2 call "tremolite," but they don't call it asbestos, 3 and then they have other times that they talk 4 about asbestos.</p> <p>5 So it's -- it is in order to be 6 consistent with the documents that I'm relying 7 upon, I think that's important to point out.</p> <p>8 Q. Later on in that paragraph, you have 9 added additions to what Drs. Longo and Rigler 10 reported in their report of August 2, 2017.</p> <p>11 Do you see that -- that part of the 12 addition to this paragraph?</p> <p>13 A. Yes.</p> <p>14 Q. There you make reference to them 15 referring to or finding asbestiform talc. Then 16 you say "report of Longo and Rigler dated 17 February 1, 2019."</p> <p>18 Do you see that reference?</p> <p>19 A. In the next sentence? Yes.</p> <p>20 Q. Yes, the next sentence.</p> <p>21 A. Yes, I see that.</p> <p>22 Q. And when you say "asbestiform talc" 23 as it relates to that report, to what are you referencing?</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 142	Page 144
<p>1 A. I'm referencing how they referred to 2 it in their report, which I believe that is 3 exactly what they said. I attempted to take the 4 language of the report.</p> <p>5 Q. In this -- this addition that you've 6 provided here, are you defining fibrous talc the 7 same as Longo and Rigler are defining it in their 8 report?</p> <p>9 MS. PARFITT: Objection.</p> <p>10 Form.</p> <p>11 THE WITNESS: I'm defining 12 it -- I'm defining it in my report and 13 that's what I'm relying on.</p> <p>14 So I can't answer that without 15 -- I don't recall whether or not -- what 16 they say in terms. I mean, they have 17 their own report and their own definition 18 potentially. I think I'm consistent with 19 that, though.</p> <p>20 They understand -- when I've 21 looked at their data in their reports, 22 they are, indeed, recognizing that there 23 are fibers of talc, fibrous talc, and 24 that there are also can be at times</p>	<p>1 asbestos and cancer risk apply equally to 2 asbestos and talc."</p> <p>3 Do you see where I'm reading from?</p> <p>4 A. No, I'm sorry. On the next page? 5 Are you on page 22?</p> <p>6 Q. It's towards the bottom. It's the 7 last third of the paragraph.</p> <p>8 A. Okay. Yeah, I got it. I see that.</p> <p>9 Q. Do you see that?</p> <p>10 And the addition, the next line 11 says: 12 "This makes clear that IARC has 13 classified fibrous talc as a known human 14 carcinogen. Other regulatory authorities have 15 addressed the cancer risk associated with fibrous 16 talc."</p> <p>17 Do you see those additions?</p> <p>18 A. I do.</p> <p>19 Q. Are you referring in this addition 20 to fibrous talc as the same thing as asbestos 21 talc?</p> <p>22 MS. PARFITT: Objection. 23 Again, these questions have been asked at 24 the prior deposition.</p>
<p>1 asbestos as well.</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. Well -- and then my question really 4 goes with regard to the additions you have here, 5 are you defining fibrous talc the same as Longo 6 and Rigler are defining it?</p> <p>7 MS. PARFITT: Objection.</p> <p>8 Asked and answered.</p> <p>9 THE WITNESS: All I can tell 10 you is, I have -- I don't -- I haven't 11 done that comparison to tell you that.</p> <p>12 I can tell you I have defined 13 it the way I am using it, and so when I 14 testify, hopefully you understand and you 15 read this, you know what I mean. I 16 believe it's consistent, but I haven't 17 gone to read every word to see if every 18 definition is the same.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. Towards the end of that paragraph, 21 you added the line: 22 "In IARC's most recent findings 23 regarding asbestos and cancer (IARC, 2012) 24 scientists explicitly stated that its findings on</p>	<p>1 MR. HEGARTY: I don't think 2 this. I think this is specific to these 3 additions. So I don't agree with that. 4 I'm just talking about in these lines -- 5 these two lines.</p> <p>6 MS. PARFITT: Sure.</p> <p>7 BY MR. HEGARTY:</p> <p>8 Q. Are you equating fibrous talc with 9 asbestos talc?</p> <p>10 A. Fibrous talc would be talc in the 11 asbestos habit. Yes, that is correct.</p> <p>12 Q. Okay.</p> <p>13 A. Which is consistent with IARC's 14 discussion in their documents.</p> <p>15 Q. And you make reference here to other 16 regulatory authorities that have addressed cancer 17 risk associated with fibrous talc. You give one 18 example there. Actually, you give a couple 19 examples.</p> <p>20 Do you have any other examples 21 besides -- that you're referring to when you're 22 saying "other regulatory authorities" besides 23 those you list there?</p> <p>24 A. Well, I think -- I think I could --</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 146	Page 148
<p>1 I only listed this here, but any -- if I look 2 across the world, there are many regulatory bodies 3 that have called talc -- have called asbestosiform 4 fibers known human carcinogens. I certainly 5 haven't given you every one. So certainly Health 6 Canada would fit here.</p> <p>7 Q. All right. Did Health Canada, 8 though, in its 2021 assessment use the phrase 9 "fibrous talc"?</p> <p>10 A. No. They used the word -- they used 11 words such as "asbestosiform habit" or 12 "non-asbestosiform," yes.</p> <p>13 Q. And in particular, though, as it 14 relates to the Health Canada assessment, that 15 assessment was directed at talc without asbestos, 16 correct?</p> <p>17 A. The without asbestos, that's 18 correct.</p> <p>19 Q. And that assessment was also 20 addressing -- also addressed talc without what you 21 would call fibrous talc, correct?</p> <p>22 MS. PARFITT: Objection.</p> <p>23 THE WITNESS: I don't know 24 whether I agree with that or not. I -- I</p>	<p>1 A. (Reviews document.) 2 MR. HEGARTY: Can we go off 3 the record just for a second. 4 (Recess: 11:30 a.m. - 5 11:32 a.m.) 6 MR. HEGARTY: We're back on 7 the record. 8 And when we went off the 9 record, I had asked Dr. Plunkett to find 10 in either the Health Canada -- the Health 11 Canada risk assessment that we marked as 12 Exhibit No. 13 where she believes Health 13 Canada applies their findings to fibrous 14 talc. 15 And during the course of being 16 off the record, Dr. Plunkett also 17 indicated she needed to look at her 18 report in a particular paragraph for that 19 report.</p> <p>20 BY MR. HEGARTY: 21 Q. And I believe, Dr. Plunkett, you 22 have not yet found that reference you're looking for; is that correct? 23 A. Yes, that's exactly right. Although</p>
<p>1 think -- let's pull it out because they 2 actually -- let me look at their 3 language.</p> <p>4 BY MR. HEGARTY: 5 Q. Okay. Let me -- 6 A. Because they do have specific 7 language. So... 8 MR. HEGARTY: Let me go ahead 9 and mark that just so you have it for the 10 record. I'll mark it as -- the Health 11 Canada risk assessment as Exhibit No. 13. 12 (Document marked for 13 identification as Plunkett Exhibit 13.) 14 MR. HEGARTY: I have a copy, 15 counsel, for you. 16 MS. PARFITT: Thank you. 17 THE WITNESS: I have one 18 here, too. 19 BY MR. HEGARTY: 20 Q. Okay. And you get that one. 21 The question now standing is: Where 22 in that assessment do you identify Health Canada 23 as indicating that assessment applies to fibrous talc?</p>	<p>1 I think I already answered the question. I don't 2 believe they use the word "fibrous talc." That's 3 for sure. So... 4 Q. Did you find anything in the risk 5 assessment itself of a description of -- of a 6 description that you thought was applicable to 7 fibrous talc? In other words, where you thought 8 that the assessment would apply to fibrous talc 9 based on the language used? 10 A. Right. I would say that based on 11 the language used, what I -- what I remember from 12 this -- and that's why I was looking -- is that 13 there's a -- there's actually a discussion that 14 they are focusing on findings for non-asbestosiform 15 talc, right, in other words, and they found that 16 to be a carcinogen, not even looking at, I 17 believe, this issue of the known human 18 carcinogenicity of asbestos and those things. 19 But I believe they were focusing on 20 the issue of asbestos-free, and that's what I need 21 to look at. So... 22 Q. Okay. We'll make a note and come 23 back to that. 24 MS. PARFITT: See where we are</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 150	Page 152
<p>1 time-wise, yes. 2 BY MR. HEGARTY: 3 Q. Towards the end of that paragraph, 4 actually at the very end of the paragraph we're 5 looking at, which is paragraph number 33. 6 A. Yeah. 7 Q. You added a statement: 8 "A finding that also could be 9 applied to similar fibers, such as fibrous talc." 10 You see that addition? 11 A. Yes. 12 Q. And that sentence now reads: 13 "This means that human exposure to 14 even very low levels of asbestos increase the risk 15 of toxic effects including cancer." 16 Then you added: 17 "A finding that also could be 18 applied to similar fibers, such as fibrous talc." 19 Do you see where I'm reading from? 20 A. Yes. 21 Q. Can you identify for me any written 22 authority for applying that same finding as to low 23 levels of asbestos to fibers, such as fibrous 24 talc?</p>	<p>1 Form. 2 THE WITNESS: So it would be 3 my training and experience in toxicology. 4 And I'd also say this is 5 consistent, although it's making a 6 different point than IARC, but IARC 7 documents make the point that fibrous 8 forms of talc, asbestiform habit talc, is 9 a known human carcinogen just as asbestos 10 would be. 11 So I would start there, go to 12 the fact that the general principles of 13 toxicology would dictate that the 14 physical form is the issue. And so at 15 very low levels of a physical form of 16 asbestos cause carcinogenicity, I would 17 expect there to be very low levels cause 18 it with talc. 19 I'm not saying they have the 20 exact same threshold if we could find 21 one, which we don't for either of these, 22 but it would be the same principle in 23 terms of health protection and -- and 24 risk, or hazard.</p>
<p>1 A. So it would be based upon -- there's 2 a document that I've either used at trial or maybe 3 it's in my report here where the company 4 themselves recognizes that fibers of talc carry 5 the same type of hazard as asbestos does, and then 6 it's the -- it's general principle of toxicology 7 that knowing that what drives asbestos is the 8 shape. It's the fibrous form of asbestos. 9 So other fibers would be expected to 10 have the same issue in terms of being carrying a 11 risk even at low levels of exposure because the 12 tissue can't handle the fiber. That's the same 13 issue. Asbestos fibers get into the tissue. They 14 aren't degraded by the tissue or can't be based 15 upon they're too big for the macrophage to engulf. 16 Same thing with the talc fiber. 17 Q. So other than what you recall as a 18 company document that makes reference to fibrous 19 talc in relation to asbestos, can you cite for me 20 any other written document that makes this same 21 statement that you have extended from very low 22 levels of asbestos to fibers, such as fibrous 23 talc? 24 MS. PARFITT: Objection.</p>	<p>1 BY MR. HEGARTY: 2 Q. If we turn next to paragraph 37. 3 You added a couple of statements in this paragraph 4 directed at silica. In particular, you added a 5 statement that referred to a few Johnson & Johnson 6 documents. 260573 through 5704, 260570, 260709. 7 Do you see where I'm reading from? 8 A. I do. 9 Q. Then towards the end of the 10 paragraph, you added the sentence: 11 "With respect to silica, levels also 12 appeared to vary across lots. Like asbestos and 13 fibrous talc, silica is a known human carcinogen." 14 Do you see that? 15 A. I do. 16 Q. And with regard to silica and your 17 statement that it is a known human carcinogen, 18 what types of cancer has it been shown to cause? 19 A. I'd have to pull the -- certainly it 20 has been shown to cause lung cancer. I'd have to 21 pull out the -- to give you a complete list, I'd 22 have to pull the monograph out. 23 But the issue is, it's a hazard of 24 cancer, just like it's a hazard of cancer for</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 154	Page 156
<p>1 these other fibrous or particle-like substances 2 within the -- so I'm using this in hazard in 3 notice. I'm not necessarily building a block for 4 general causation because I'm not doing that, 5 actually, but it's a different issue. 6 MR. HEGARTY: One of the 7 materials we were provided that we had 8 looked at earlier from Exhibit No. 9 is 9 what I'm marking as Exhibit No. 14. 10 (Document marked for 11 identification as Plunkett Exhibit 14.) 12 MR. HEGARTY: I only have one 13 copy. I'm sorry. 14 BY MR. HEGARTY: 15 Q. What is that? What is Exhibit 16 No. 14? 17 A. So this is the report on carcinogens 18 from 1998. So in the litigation, I've talked 19 about the RoC process for talc. Well, there was a 20 RoC process for silica, and so this was one of the 21 documents. 22 I've actually had this in my files 23 for a long time, but since I was filling out -- 24 I'm sorry -- this section of my report with a</p>	<p>1 for example, this document talks about 2 dose-response. 3 BY MR. HEGARTY: 4 Q. I guess the -- the first question, 5 just generally whether in making the statement 6 that silica is a known human carcinogen whether 7 you did an assessment as far as what doses are 8 necessary for it to have carcinogenic effect. 9 MS. PARFITT: Objection. 10 Dr. Plunkett was examined with regard to 11 heavy metals and some of the other types 12 of minerals. 13 MR. HEGARTY: Right. 14 MS. PARFITT: You are correct. 15 Silica at that time was not examined. 16 MR. HEGARTY: Right. 17 MS. PARFITT: But I believe 18 her general explanation with regard to 19 all heavy metals and dosages and 20 thresholds and all of that was clearly 21 examined. 22 THE WITNESS: So the answer 23 to your question is, I did not do a 24 silica-specific ovarian cancer risk</p>
<p>1 little more detail, I added this one, too, because 2 I had this one already in my files. I pulled this 3 a while ago. 4 Q. Okay. Do you recall reviewing any 5 published medical literature that has linked 6 exposure to silica to ovarian cancer risk? 7 MS. PARFITT: Objection. 8 Form. 9 THE WITNESS: I did not do a 10 specific assessment for only ovarian 11 cancer risk and silica, no. 12 BY MR. HEGARTY: 13 Q. For the statements you've added to 14 your paragraph regarding silica, did you do any 15 assessment as it relates to dose levels of silica 16 that create any type of risk? 17 MS. PARFITT: Objection. 18 Form. 19 THE WITNESS: Are you asking 20 me about, did I try to determine if 21 there's a particular threshold within 22 talcum body powder that needs to be 23 reached, or are you just asking me 24 generally about dose-response? Because,</p>	<p>1 assessment. That's probably the best 2 answer to your question. 3 Again, my assessment for the 4 heavy metals, as well as silica, was 5 focusing on the issue of a complex 6 mixture of constituents that could have 7 additive effects when you talk about 8 cancer hazard and also even risk. 9 Because we know that in cancer 10 risk assessments, compounds that share 11 the same mechanism of action, which by 12 the way this one causes irritation, 13 chronic inflammatory responses, as a 14 plausible mechanism discussed for the 15 onset of cancer. 16 BY MR. HEGARTY: 17 Q. You say that "silica levels also 18 appeared to vary across lots." 19 Are you talking about lots of 20 Johnson's Baby Powder? 21 A. Yes, that's correct. And I 22 apologize. That would have been more precise to 23 say that. I should say lots of Johnson & 24 Johnson's Baby Powder as well as -- and what I</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 158	Page 160
<p>1 mean by that, also I would say even there's some 2 -- some data on the -- not the bottle of the 3 powder, but also the drums of the baby powder as 4 well.</p> <p>5 Q. When you referred to silica varying 6 across lots, did you make any assessment as to 7 whether the amount of silica in those lots was at 8 a dose capable of causing any type of cancer?</p> <p>9 MS. PARFITT: Objection.</p> <p>10 Form.</p> <p>11 THE WITNESS: I didn't do a 12 dose analysis, no. But what I did do was 13 look at and I'm aware of what the company 14 themselves, and there may be some of 15 these documents that I'm citing here 16 about levels of silica. They may have 17 made that comment.</p> <p>18 It's the idea that silica is 19 something that -- there are 20 specifications where you don't want 21 certain levels of silica in powder 22 products.</p> <p>23 So there were even, I think, 24 within the specifications for Johnson &</p>	<p>1 you make reference to Canadian government action 2 in 2007 as well as the risk assessment that Canada 3 did as it relates to talc in December 2018 and 4 April 2021.</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Those additions?</p> <p>8 A. Yes.</p> <p>9 Q. What is your authority or source 10 document for the statements regarding the Canadian 11 government's findings in 2007?</p> <p>12 A. So that's at their website. If you 13 go to the Hotlist for talc, you'll find that there 14 was an addition of a warning to the product that 15 was talked about in 2007.</p> <p>16 Q. Did that additional warning result 17 from a finding of toxicity with talc products?</p> <p>18 A. I'd have to go look at the site. 19 It had to do with the data and the 20 information about -- about talc products, yes, 21 about talc powder and lung toxicity, yes. I 22 believe it had to do with these issues -- part of 23 it was related to the issues of not only the 24 infants, but more than that as well.</p>
Page 159	Page 161
<p>1 Johnson some issues about that. Yet, 2 they still were detecting it at times in 3 certain product.</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. You did not do an assessment as to 6 whether the amounts of silica that you have seen 7 reported in Johnson's Baby Powder lots are capable 8 of creating an ovarian cancer risk by themselves, 9 correct?</p> <p>10 MS. PARFITT: Objection.</p> <p>11 Form.</p> <p>12 THE WITNESS: That is 13 correct. Because my -- my issue on 14 ovarian cancer risk is driven by the 15 complex mixture, not just by individual 16 constituent.</p> <p>17 BY MR. HEGARTY:</p> <p>18 Q. Okay. If you would next turn to 19 paragraph 41.</p> <p>20 A. Okay.</p> <p>21 Q. Towards the end of that paragraph, 22 you make reference to findings of -- or let me 23 back up.</p> <p>24 Towards the end of that paragraph,</p>	<p>1 Q. But my question was or what I was 2 trying to get at was whether the warning as 3 relates to inhaling talc particles was limited to 4 asphyxiation?</p> <p>5 A. No, I don't think this one was. 6 Because this one is also related, I believe, to 7 the WHMIS Toxic TEA, which talks about lung 8 toxicity in workers. So it's not just certainly 9 the infants were there, but it was the worker. I 10 believe this has to do with the WHMIS as well.</p> <p>11 Q. Whatever the references would be or 12 citations would be reflected in the website that 13 you just referred me to, correct?</p> <p>14 A. Either looking at the WHMIS listing 15 for it or the -- I mean, if you search "talc" on 16 the Health Canada website, you can link to all 17 these pages and so that's where I went. And there 18 are actions in 2007 that are reflected by these, 19 the statement I'm making.</p> <p>20 Q. And the reason I ask that was 21 because you don't include a citation after that 22 sentence.</p> <p>23 A. Oh. So the citation that should be 24 there is the Health Canada website. So I</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 162	Page 164
<p>1 apologize. You noticed I tended to do that for 2 you, and that's one that should be there, yes. 3 Q. Regarding the Health Canada risk 4 assessment that you describe here, again, you have 5 not had any communication with the Canadian 6 regulatory authority about talc or asbestos, 7 correct? 8 A. That's correct. I have dealt with 9 Health Canada before in other venues for other 10 compounds. I'm very familiar with them, but not 11 with talc. I haven't talked to them specifically. 12 Q. And we'll talk about that just in a 13 moment. 14 Did you provide any of your expert 15 reports to Health Canada? 16 A. No, I did not. 17 Q. When you reviewed the Health Canada 18 risk assessment, did you note that it included in 19 its list of reliance materials expert reports from 20 litigation? 21 A. In the final screening assessment? 22 It did. 23 Q. Yes. 24 A. That's correct. The public --</p>	<p>1 something I'd have to do an analysis of. 2 It's very possible that in the broad FDA 3 world, for example, that that has 4 happened across different products and 5 different categories. It's very 6 possible, but I haven't done that 7 analysis. 8 So I'd have to look to answer 9 that question. 10 BY MR. HEGARTY: 11 Q. Are you aware of any written 12 assessment from any regulatory authority that has 13 cited to expert reports in litigation? 14 MS. PARFITT: Objection. 15 Asked and answered. 16 THE WITNESS: Any regulation? 17 You mean not just FDA? 18 BY MR. HEGARTY: 19 Q. Any regulation, not just FDA. 20 MS. PARFITT: Objection. 21 THE WITNESS: I'd have to go 22 look. I can't answer that without 23 looking. I've never done that type of 24 analysis.</p>
Page 163	Page 165
<p>1 public was invited to submit and some of the 2 reports of both defense and plaintiff's experts in 3 litigation were submitted to the website or to the 4 docket. 5 Q. Have you in any of your published 6 articles ever referenced to or cited litigation 7 reports? 8 A. In my published articles? 9 Q. Correct. 10 A. I probably have not, no. It doesn't 11 mean that I haven't seen it done by -- by -- other 12 regulatory authorities do do that because 13 everything that comes in must be listed as part of 14 the information they looked at. 15 Q. And I was limiting my question to 16 just your published articles. 17 And you have not done so? 18 A. No, I have not. 19 Q. Can you cite for me to any risk -- 20 to any written safety assessment from FDA where it 21 cited to expert reports from litigation? 22 MS. PARFITT: Objection. 23 Form. 24 THE WITNESS: That's</p>	<p>1 BY MR. HEGARTY: 2 Q. You are aware that IARC limits its 3 review to published medical literature, correct? 4 A. Public -- 5 Q. Publicly available. 6 MS. PARFITT: Objection. 7 THE WITNESS: Publicly 8 available information. That's correct. 9 BY MR. HEGARTY: 10 Q. IARC would not consider expert 11 reports in litigation, correct? 12 MS. PARFITT: Objection. 13 Form. 14 THE WITNESS: It may. It may 15 consider an expert report in litigation 16 in terms of the science cited that's 17 public, but no, I can't imagine that they 18 would rely on an expert report by itself 19 without digging all the way into the 20 science, which is what they do. They go 21 to the -- the primary sources that have 22 been looked at. 23 BY MR. HEGARTY: 24 Q. Have you ever advised a client as to</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 166	Page 168
<p>1 an issue about a cosmetic based on an expert 2 report from litigation? 3 MS. PARFITT: Objection. 4 THE WITNESS: No. It's never 5 come up in the clients I've worked with. 6 BY MR. HEGARTY: 7 Q. Have you looked for any other 8 Canadian authorities that has come -- that have 9 come to a conclusion similar to Health Canada's 10 risk assessment? 11 MS. PARFITT: Objection. 12 THE WITNESS: For any 13 chemical in any? I don't understand. 14 BY MR. HEGARTY: 15 Q. No. Let me restate the question. 16 With regard to Canada's risk 17 assessment on talc that came out in April of 2021, 18 have you looked for any other Canadian authorities 19 have cited to that or come to similar conclusions 20 as it relates to talcum powder products? 21 MS. PARFITT: Objection. 22 Form. 23 THE WITNESS: Well, there 24 would be no other Canadian authority that</p>	<p>1 where they can go and they'll put -- 2 that's what they have done with the -- 3 that's what they did back in 2007, I 4 believe, where they also talked about 5 putting it onto the labeling. 6 BY MR. HEGARTY: 7 Q. Is there a Canadian regulation that 8 defines the warning standard for cosmetics? 9 A. Not in the exact same way as in the 10 U.S. Do you want me to explain? 11 Q. Sure. 12 A. Because it's a long explanation 13 but -- 14 Q. Well, when you say "long 15 explanation," can you give me an estimate of how 16 long it will take? 17 A. It will take me a couple of minutes. 18 Q. Okay. Well, let me just -- let's 19 stick with my question. 20 A. Okay. 21 Q. Is there a Canadian regulation that 22 defines the standard for warning for cosmetics? 23 A. It does, but it's not the exact 24 same. It's not directly analogous to the U.S.,</p>
Page 167	Page 169
<p>1 would do this. You have to understand. 2 Health Canada is the FDA of Canada. So 3 just like in the U.S., if you're talking 4 talcum powder products, the regulatory 5 authority would be FDA, and there it is 6 Health Canada. 7 BY MR. HEGARTY: 8 Q. Do you consider yourself an expert 9 on the Canadian system for regulating cosmetics? 10 MS. PARFITT: Objection. 11 Form. 12 THE WITNESS: I do, yes. I 13 have dealt with that with my clients, and 14 that's one of the reasons that when I 15 talk to you about all dimension worldwide 16 authority, I do more than cosmetics just 17 in the U.S. 18 BY MR. HEGARTY: 19 Q. Under Canada's regulatory system, 20 can Health Canada require a warning on a cosmetic? 21 MS. PARFITT: Objection. 22 THE WITNESS: They can 23 through this type of rulemaking. So they 24 have to do these kinds of assessments</p>	<p>1 the way the regulations in the U.S. are laid out, 2 and that's what why I'm saying. I would need to 3 explain to you, but they do have a standard. It's 4 just not where I can go to, like I can to 740.1, 5 and find it so concisely stated. That's what I'm 6 telling you. 7 Q. What would be the regulation 8 citation where you would go to look? 9 A. So it would be looking at the law 10 first. So in Canada, under cosmetics, there is a 11 -- there's a food drug law. Then there's a 12 cosmetics regulation that was established back in 13 the 1980s. And within those, when you read them, 14 you will find there is a discussion of what the 15 standard is in terms of regulating the cosmetics. 16 They have very similar standard. 17 Premarket safety assessment. It has to be safe 18 before it's marketed. And they also require that 19 information be provided in the label that informs 20 the consumers of the hazards of the product. So 21 it's a hazard standard, just like it is in the 22 U.S. 23 But you don't get it in the same 24 way. Again, it's not as -- that's the problem is</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 170	Page 172
<p>1 it's not as -- it's not laid out in quite the same 2 way because their regulatory system and their 3 regulations aren't laid out in the same way ours 4 are. 5 However, you can go and find 6 statements on their website for different 7 chemicals where they talk about the process. They 8 go through it, and it's exactly the same basic 9 process in terms of a hazard standard, a 10 possibility standard, not -- for cosmetics and 11 those types of ingredients, not like a drug 12 standard where there's -- they do risk-benefit 13 weighting there just like they do in the U.S. 14 Q. Is there a numerical -- is there a 15 regulation that you can cite to? 16 A. I can, but not off the top of my 17 head. So I have those in my files. If you're 18 interested in that, I'd have to pull. I have a 19 file at home on cosmetic regulations in Canada 20 and, yes, there's citations I can give you. 21 Q. Has Canada mandated an ovarian 22 cancer warning on talc for perineal use? 23 A. It's in the process of developing 24 their recommendations that will go onto the</p>	<p>1 MS. PARFITT: Objection. 2 Form. 3 THE WITNESS: They may. We 4 just don't know. That's what I'm saying 5 to you. I don't know yet. That's what 6 they're in the process of doing. 7 They also may ban it. It's 8 possible they could decide to ban it 9 for -- for use. 10 And then you also have the 11 issue of the product is no longer being 12 sold in Canada, just like it isn't being 13 sold here. So that may impact the 14 actions Canada takes as well. I don't 15 know. You'd have to talk to the 16 regulator to ask them that. 17 BY MR. HEGARTY: 18 Q. You agree, though, that the Health 19 Canada risk assessment is not just limited to body 20 powders, correct? 21 A. No. It discusses -- in fact, if you 22 read their website, it talks about all the 23 different places, other types of personal care 24 products -- and I realize I'm talking really</p>
<p>1 Hotlist. So there will be, I believe, just like 2 you see currently for the -- for the regulation, 3 the warnings that they're going to ask or the risk 4 mitigation processes that they're going to put in 5 place. And some of that is already on the Health 6 Canada's website. 7 So it's what Health Canada does 8 rather than what the company does, but I do 9 believe there's going to be something that will 10 happen. It just hasn't happened yet, and that's 11 because this risk assessment screening assessment 12 just came out, and it's going to take time. 13 And I think if you listened -- when 14 I went on and listened to that -- the reason I 15 went to that press release to listen to what they 16 were saying, they discuss that issue. How they 17 are -- there's going to be actions taken as far as 18 changes to the Hotlist for this particular issue, 19 and you'll notice that the consumer-facing page -- 20 in the last trial we showed that -- is different. 21 Q. So is it your understanding that the 22 Health Canada will actually mandate that talcum 23 powder products contain a warning about ovarian 24 cancer for perineal use?</p>	<p>1 fast -- that this could apply to, and so it's not 2 just body powders. That is correct. 3 Q. But from your understanding so far 4 as it relates to a manufacturer of a product 5 containing talcum powder products, there's been no 6 mandate or requirement to take any action, 7 correct? 8 MS. PARFITT: Objection. 9 Form. 10 BY MR. HEGARTY: 11 Q. From Health Canada. 12 MS. PARFITT: Objection. 13 Form. 14 THE WITNESS: At this point 15 in time, they have not mandated a 16 specific language for a label. That is 17 correct. They have put on notice 18 companies to understand what their 19 opinion is, but you're correct. 20 The next step is to see what 21 actions they will take for risk 22 mitigation. That's what they call it 23 there. That next step is risk 24 mitigation: labeling, banning from a</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 174	Page 176
<p>1 product, limiting the percentage 2 potentially. There's a number of actions 3 they could take to mitigate the risk. 4 BY MR. HEGARTY: 5 Q. Have you ever published an article 6 where you referred to a safety assessment finding 7 by Health Canada? 8 MS. PARFITT: Objection. 9 Form. 10 THE WITNESS: I don't think 11 I've published an article, but I have 12 seen that in other peer-reviewed 13 publications where others that I know 14 or -- well, other articles I have seen 15 cite to Health Canada screening risk 16 assessments, yes. 17 BY MR. HEGARTY: 18 Q. Have you ever lectured to a medical 19 or scientific group where you have discussed 20 Canadian regulation of cosmetics? 21 A. Sorry. Your question? 22 Q. Sure. 23 Have you ever lectured to a medical 24 or scientific group where you have discussed</p>	<p>1 A. Not for -- 2 MS. PARFITT: Objection. 3 THE WITNESS: Not that I can 4 recall for a cosmetic for sure. Cosmetic 5 ingredients, possible. I'd have to think 6 back. I don't -- I don't recall 7 something off the top of my head, but I 8 have done that before for ingredients 9 that are used in cosmetics. 10 BY MR. HEGARTY: 11 Q. Have you ever advised clients about 12 Canadian regulations for warnings on a cosmetic? 13 MS. PARFITT: Objection. 14 Form. 15 THE WITNESS: In general 16 terms, yes. I've never told them what to 17 put on their product, but I -- for 18 example, some of the work that I do where 19 I told you I've been working with someone 20 who's an ingredient supplier, I deal with 21 Canadian compliance, EU compliance, U.S. 22 compliance, Japanese compliance, as well 23 as other worldwide authorities. 24 BY MR. HEGARTY:</p>
<p>1 Canadian regulation of cosmetics? 2 A. No. I have talked to students about 3 it, but not to a -- not like a presentation at a 4 scientific meeting. No, I have not done that. 5 Q. Have you ever interacted directly 6 with Health Canada regarding a cosmetic? 7 MS. PARFITT: Objection. 8 Form. 9 THE WITNESS: Not a finished 10 product, no, but ingredients that I know 11 can be used in cosmetics, yes. 12 BY MR. HEGARTY: 13 Q. Have you ever been involved in a 14 Health Canada safety assessment for any cosmetic 15 or cosmetic ingredient? 16 A. No, I have not been. By that I 17 would think you would -- you're meaning performing 18 the assessment or submitting comments? 19 Q. Right. 20 Any type of assessment that Health 21 Canada has done for a cosmetic or cosmetic 22 ingredient. Along the lines you just talked 23 about. Whether you provided materials. You 24 provided comment. You were some way involved.</p>	<p>1 Q. Did you assess for purposes of your 2 MDL report the strengths and weaknesses of the 3 Canadian final risk assessment -- 4 A. Yes. 5 Q. -- for talc? 6 A. For the amended report? 7 Q. Yes. 8 A. Yes, I did do that. 9 Q. What are the weaknesses? What 10 weaknesses did you find with regard to that final 11 risk assessment? 12 MS. PARFITT: Objection. 13 Form. 14 THE WITNESS: So I can't -- 15 I'm not going to -- I don't think I have 16 a particular weakness. 17 I actually found that the 18 assessment was consistent with the type 19 of assessment that I did and it was -- 20 appeared to be including all of the 21 relevant articles that I would expect to 22 see. 23 They discuss some limitations 24 of their own or weaknesses in their own</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 178	Page 180
<p>1 assessment, and so maybe I would just 2 point you to that. 3 I mean, consistent with a high 4 quality assessment, you should discuss 5 like that that you did. In a regulatory 6 body, you have to lay out your strengths 7 and weaknesses for transparency purposes, 8 and so it was there. 9 I didn't find any particular 10 weakness that I would point to to say 11 that there's a reason I would discount 12 something they did, but certainly I did 13 consider that when I looked at -- at it. 14 MR. HEGARTY: Can we go ahead 15 and take a quick break? We've been going 16 a little while. 17 MS. PARFITT: Yes. 18 (Recess: 11:59 a.m. - 19 12:15 p.m.) 20 MR. HEGARTY: Back on the 21 record. 22 BY MR. HEGARTY: 23 Q. Dr. Plunkett, the next paragraph I 24 want to talk about is paragraph 72 of your report.</p>	<p>1 analysis that's pooling across studies of the same 2 type. These are the cohort studies. 3 And another I think an advantage to 4 this study is they did look at the data in terms 5 of people with a patent reproductive tract versus 6 someone who doesn't have a reproductive tract that 7 would enable talc to travel up the -- up towards 8 the fallopian tubes or the ovaries. So that's 9 definitely a strength of it. 10 The weaknesses of this are similar 11 to the weaknesses of some of the individual 12 studies in that we, unfortunately, still have 13 limited data on when people were exposed and for 14 how long. Not for all the studies. 15 We have some better data in some 16 studies, but the Nurses' Health Study -- that's 17 one of those studies that we can keep going back 18 to that is a big part of this -- is a study that 19 was not designed to look at the relationship 20 between talc and ovarian cancer. And as a result, 21 the question that was asked was asked at a time 22 period and then that frequent -- that duration of 23 exposure was never tied down. 24 So those are the same kind of basic.</p>
Page 179	Page 181
<p>1 In this part of your report, you 2 discuss the O'Brien study, correct? 3 A. Yes, that's correct. 4 Q. And what are the strengths and 5 weaknesses of the O'Brien study, in your opinion? 6 A. So the -- the strengths and 7 weaknesses of the O'Brien study -- and if you want 8 all of them, I'm going to need to pull it out, but 9 essentially -- 10 MR. HEGARTY: I have a copy of 11 the O'Brien study -- 12 THE WITNESS: Okay. 13 MR. HEGARTY: -- that I'll 14 mark as Exhibit No. 15. 15 (Document marked for 16 identification as Plunkett Exhibit 15.) 17 MS. PARFITT: Thank you. Got 18 it. 19 THE WITNESS: Go ahead. I'm 20 sorry. 21 BY MR. HEGARTY: 22 Q. I'm ready whenever you're ready. 23 A. Yeah. Okay. So the strengths of 24 the O'Brien study is that it is a -- it is an</p>	<p>1 The things that existed within the studies that 2 are used in the analysis are still there. So 3 those weaknesses are still there. It can't be 4 corrected based upon the analysis they've done. 5 But I think to me a strength of it 6 is the fact that they did focus in on this issue 7 of patent versus nonpatent reproductive tracts, 8 and that's what I talk about a little bit. I 9 think that's -- do I mention that? I think I talk 10 about that in my -- in this paragraph that I added 11 it. 12 And I added this study in this 13 paragraph just because this is new. So I did try 14 to update with some of the newer. Because you 15 know I mention -- I try to mention the available 16 epidemiological data, and so that's why this was 17 added. 18 Q. Any other strengths and 19 weaknesses -- 20 MS. PARFITT: Objection. 21 BY MR. HEGARTY: 22 Q. -- that we haven't talked about? 23 A. No, and I would point you to the 24 paper itself where they discuss their strengths</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 182	Page 184
<p>1 and weaknesses there, and things I've said before 2 generally about -- about some of the individual 3 studies that are part of this.</p> <p>4 Q. Do you agree the O'Brien study was 5 sufficiently powered to identify a 1.3 relative 6 risk if it exists?</p> <p>7 MS. PARFITT: Objection. 8 Form. For what? Patent, not patent?</p> <p>9 MR. HEGARTY: Between -- well, 10 let me ask it. Let me rephrase it.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. Do you agree that the O'Brien study 13 was sufficiently powered to identify a 1.3 14 relative risk between every use of body powder and 15 ovarian cancer risk if it exists?</p> <p>16 MS. PARFITT: Are you speaking 17 with regard to patent tubes?</p> <p>18 MR. HEGARTY: No. Just the 19 overall conclusion of the study, just as 20 I said in my -- inn my question.</p> <p>21 MS. PARFITT: Objection. 22 THE WITNESS: I have formed 23 the opinion that it was underpowered to 24 do that or overpowered. I relied on what</p>	<p>1 conclusions. 2 THE WITNESS: Can you ask it 3 again?</p> <p>4 BY MR. HEGARTY: 5 Q. Sure. 6 A. Can you read the question again? 7 Q. The conclusion and relevance in the 8 paper itself says that: 9 "In this analysis of pooled data 10 from women in four U.S. cohorts, there was not a 11 statistically significant association between use 12 of powder in the genital area and incidence of 13 ovarian cancer. However, the study may have been 14 underpowered to identify a small increase in 15 risk."</p> <p>16 Did I read that correctly? 17 A. You did exactly. 18 Q. Do you state that conclusion 19 anywhere in your report? 20 MS. PARFITT: Objection. 21 Misstates not only her report, but the 22 conclusions in the study and data in the 23 study. 24 THE WITNESS: So I don't -- I</p>
Page 183	Page 185
<p>1 the authors themselves said in terms of 2 how they designed the study and what they 3 looked at. 4 So I don't have a criticism 5 that it was -- that it was underpowered 6 to do that. Although the biggest 7 criticisms of these studies is that none 8 of them were designed to look at it and, 9 as a result, don't have sufficient 10 information, in my view, on exposure to 11 be able to say that you can definitively 12 say whatever use or -- ever use versus 13 never use really was in the individuals 14 and how long that went on.</p> <p>15 BY MR. HEGARTY: 16 Q. You're referring in this part of 17 your report to the subgroup analysis on women with 18 patent tubes. 19 You agree that the O'Brien study 20 came to an overall conclusion with regard to body 21 powder use in the genital area in the incidence of 22 ovarian cancer, correct? 23 MS. PARFITT: Objection. 24 Misstates the article and the</p>	<p>1 do not quote the sentences, if that's 2 what you're asking me. I think that's 3 what you're asking me. 4 BY MR. HEGARTY: 5 Q. Well -- 6 A. But I do think -- go ahead. 7 Q. I don't -- let me just restate my 8 question. We don't -- don't get off-track. I'm 9 not asking whether you quoted it. 10 I'm asking: Do you include the 11 conclusion or reference to the conclusion about 12 there not being "a statistically significant 13 association between use of powder in the genital 14 area and the incidence of ovarian cancer," that 15 part of the report anywhere in your MDL report? 16 MS. PARFITT: Objection. 17 Form. 18 THE WITNESS: Well, I think I 19 do in my report. I mean, I -- I'm 20 looking at the exact language I used in 21 my report about this study, but I think 22 if you read what I have -- what I have 23 written about the study and then read the 24 the quote I did pull out.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 186	Page 188
<p>1 Because there were some 2 criticisms or some comments or letters to 3 the editor about the study where O'Brien 4 actually responds to questions asked 5 about the fact that there may have been a 6 lack of statistical significance within 7 some parts of the study in terms of what 8 was found. 9 But to me, as I have stated, I 10 think the study shows that there, indeed, 11 is within the women with a patent 12 reproductive tract a statistically 13 significant increased finding. 14 I don't know what else to tell 15 you. I'd say I'd refer you to my 16 paragraph where I attempted to, I think, 17 give an accurate reflection of what the 18 study is. 19 BY MR. HEGARTY: 20 Q. If you turn over to the Discussion 21 section on page 56, do you agree with the 22 statement, the first statement that "In this 23 pooled analysis of four large U.S. cohorts, there 24 was no statistically significant association</p>	<p>1 without regard to the -- would apply to the 2 overall look at the cases and controls -- 3 MS. PARFITT: Objection. 4 Form. 5 BY MR. HEGARTY: 6 Q. -- as opposed to looking at a 7 subgroup analysis? 8 MS. PARFITT: Objection. 9 Form. Misstates the data. 10 BY MR. HEGARTY: 11 Q. You can answer. 12 MS. PARFITT: And study 13 results. Go ahead. 14 THE WITNESS: Okay. 15 So, again, I think the best 16 way to answer that is to point you to 17 what Dr. O'Brien herself says or himself 18 says -- it's a her I think -- says about 19 it in response to Dr. Harlow. 20 Because I think she's pointing 21 out that the data is consistent with 22 the -- with their hypothesis. The data 23 they have is consistent with the 24 hypothesis and it doesn't say that</p>
<p>1 between self-reported use of powder in the genital 2 area and risk of ovarian cancer"? 3 MS. PARFITT: Objection. 4 Asked and answered. She said that's what 5 it says, but she did not say she agreed. 6 BY MR. HEGARTY: 7 Q. Do you agree that that's -- that 8 sentence describes what the study found? 9 MS. PARFITT: Objection. 10 Misstates the study results and data. 11 BY MR. HEGARTY: 12 Q. You can answer. 13 A. So I -- my first answer was going to 14 be, you have read that correctly. I agree that 15 that statement is there. 16 But as I have stated in my -- in my 17 report, I believe that there is statistically 18 significant findings that inform on this 19 association between use of genital talc and risk 20 of ovarian cancer. 21 But I don't disagree with you that 22 that's -- this sentence is absolutely there. I 23 see that sentence. 24 Q. Does that sentence accurately apply</p>	<p>1 there's no risk. 2 But I don't disagree with you. 3 They have described it with that 4 sentence. I agree that's there. 5 I think, however, the study 6 provides important evidence that adds to 7 the weight of the evidence that there, 8 indeed, is a repeated signal, repeated 9 finding of an increased risk of ovarian 10 cancer in women that use talc genitally. 11 BY MR. HEGARTY: 12 Q. Do you agree with the next sentence 13 in that section that we're looking at as a finding 14 from this study that "There was no clear 15 dose-response transfer duration and frequency of 16 powder use in the genital area in relation to 17 ovarian cancer risk"? 18 MS. PARFITT: Objection. 19 Misstates the data. 20 THE WITNESS: So I agree that 21 you have read that correctly, and I would 22 say in response to that that I don't 23 think that's an accurate reflection of 24 the weaknesses of the study.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 190	Page 192
<p>1 In other words, I've already 2 told you that they themselves talk about 3 the fact that they don't have the data on 4 frequency and duration on all of them. 5 So if they don't have it, obviously then 6 you're not going to be able to find it, 7 right? 8 So I think I understand why 9 they have written this sentence, but I 10 think there if you go further into the 11 paper, they actually talk about these 12 particular issues about the fact that 13 they don't -- they don't have that 14 information on duration. 15 BY MR. HEGARTY: 16 Q. With regard to the subgroup analysis 17 on women with patent and nonpatent tubes, does the 18 paper identify data on the age of the women at the 19 time they had the tubal ligation or where their 20 tubes became nonpatent? 21 MS. PARFITT: Objection. 22 Form. 23 THE WITNESS: I don't believe 24 it does, but let me look if they were</p>	<p>1 that are in the study, but I don't know. 2 They don't -- they don't comment on that. 3 So I can't answer that. I can't answer 4 that for you. 5 BY MR. HEGARTY: 6 Q. Does the paper identify the extent 7 of exposure to talcum or body powder at the time 8 they had the tubal ligation or other procedure 9 where their tubes became nonpatent? 10 A. In answer to that, I'd have to dig 11 into their records. I don't know. I don't recall 12 that being stated in here, but I don't. You want 13 me to read it and look? I can't answer that 14 without looking. 15 Q. Well, do you recall sitting here 16 today one way or the other? 17 A. I don't recall looking for that 18 information. So I don't recall that, no. 19 Q. Did women who had nonpatent tubes 20 have enough exposure to baby powder prior to their 21 tubes becoming nonpatent to increase their risk of 22 ovarian cancer, in your opinion? 23 MS. PARFITT: Objection. 24 THE WITNESS: I haven't</p>
Page 191	Page 193
<p>1 able to get that. 2 (Reviews document.) 3 I don't believe they had that 4 information because I think they're 5 saying here that it was not recorded. So 6 they don't have that information for 7 everything. 8 Is that what you're asking me? 9 BY MR. HEGARTY: 10 Q. Yes. 11 A. If it was done post their entry into 12 the study. So if they had -- they had -- they 13 have that data for individuals as they enter the 14 study, but are you asking me -- but they don't 15 have complete information based on what they're 16 saying here. 17 Is that what you're asking me? 18 Q. My question: Does it identify the 19 age at which the women -- women's tubes became 20 nonpatent as to that group? 21 MS. PARFITT: Objection. 22 Form. 23 THE WITNESS: I imagine you 24 could get that if you went to the records</p>	<p>1 formed that opinion one way or the other. 2 BY MR. HEGARTY: 3 Q. Does the paper identify the 4 difference in exposure history to talcum or body 5 powder between the women with and without a tubal 6 ligation at the time they had the procedure where 7 their tubes became nonpatent? 8 A. I'll have to look to answer that 9 question. I didn't attempt to look for the answer 10 to that question when I was reviewing the paper. 11 Q. Did you review the editorial comment 12 by Gossett published at the time of O'Brien? 13 A. Was it -- if it was within the 14 comments at the same time that Harlow's comments 15 were given -- I think there were several -- then I 16 may have. If it's in a different edition or a 17 different -- if it's in a different time, then I 18 don't know. I'd have to see it. 19 MR. HEGARTY: Let me mark as 20 Exhibit No. 16 the Gossett -- 21 MS. PARFITT: Thank you. 22 MR. HEGARTY: -- editorial 23 that was published in JAMA January 7, 24 2020.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 194	Page 196
<p>1 (Document marked for 2 identification as Plunkett Exhibit 16.) 3 BY MR. HEGARTY: 4 Q. Can you tell me whether you had 5 reviewed this at the same time you reviewed the 6 O'Brien study? 7 A. I will try to answer that for you. 8 I'm looking at something that I can find in my -- 9 (reviews document.) 10 I believe I've seen this before. I 11 don't know that it -- this was not part of the -- 12 the letters to the editor. So this is a different 13 document. So I believe this was published maybe 14 not in the same -- I don't know if it's published 15 in the same one. Let me look and see. 16 Q. It was published in the -- 17 A. That's what I -- 18 Q. -- same volume as the O'Brien 19 article? 20 A. Right. But it was not -- it was not 21 something that was in the back like the Harlow 22 comments is what I'm saying. 23 Q. Correct. 24 A. Yes, exactly. So I have seen this</p>	<p>1 personal knowledge of any of that. 2 Q. Do you have any criticisms of 3 Exhibit No. 16? 4 MS. PARFITT: Objection. 5 Form. 6 THE WITNESS: I haven't 7 formed an opinion based on this document 8 at this point in time. 9 BY MR. HEGARTY: 10 Q. If you look over at Exhibit No. 16 11 page 30? 12 A. Okay. I'm there. 13 Q. The first full paragraph beginning 14 with the word "Given." 15 Do you see that paragraph? 16 A. Yes. 17 Q. This paragraph relates to the 18 subject area of patent tubes, and it says: 19 "Given this punitive mechanism of 20 exposure, the subgroup analysis of women with 21 patent reproductive tracts is of particular 22 interest. However, it is not possible to equate a 23 patent reproductive tract with exposure in a 24 nonpatent reproductive tract with non-exposure."</p>
<p>1 before, yes. If that's what you're asking me? 2 Q. Yes. 3 And did you -- 4 A. Yes, I have seen it before. 5 Q. I saw it -- strike that. 6 My review of your amended report 7 doesn't show that you reference this Gossett 8 editorial; is that correct? 9 A. I do not reference this in the -- in 10 the body of my report. That is correct. 11 Q. But you had read it at the time that 12 you prepared your amended report, correct? 13 A. I read it when I retrieved the 14 information on the O'Brien article, yes. I can't 15 tell you exactly when I read it, but I did, yes. 16 Q. Do you know Dr. Gossett? 17 A. No, I don't believe I do. 18 Q. Do you know Dr. del Carmen? 19 A. No, I do not. 20 Q. Do you know their qualifications? 21 A. Only by what they list here. 22 Q. Okay. 23 A. I could tell you based on the paper, 24 but I don't know them specifically. I have no</p>	<p>1 Do you agree with that sentence? 2 MS. PARFITT: Objection. 3 Dr. Plunkett has indicated that she not 4 only did not cite this as a reference, 5 but had not digested the article and had 6 no opinions with regard to its context. 7 THE WITNESS: Well, I mean, 8 I've seen -- you have read that statement 9 correctly. I see it. 10 BY MR. HEGARTY: 11 Q. Do you agree with that statement? 12 A. That -- are you asking me do I agree 13 with whether or not you can't equate the two 14 generally or are you asking me about -- 15 Q. Yes. 16 A. -- their study? 17 Q. I am asking you: It is not possible 18 -- is it correct that it is not possible in this 19 study to equate a patent reproductive tract with 20 exposure and a nonpatent reproductive tract with 21 non-exposure? 22 MS. PARFITT: Objection. 23 THE WITNESS: I think that 24 would be highly dependent on the</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 198	Page 200
<p>1 information you had. I think it's -- I 2 certainly think the patent versus 3 nonpatent is important in terms of 4 biologic mechanism that we believe it has 5 to get there, but I don't -- I don't know 6 that I can answer that -- that question 7 that I agree or disagree simply because I 8 think there's more to it than that. 9 The sentence is not saying -- 10 I don't think it's saying quite how 11 you're -- you're stating it. I think 12 it's -- I think he's -- I think it's you 13 have to read that in conjunction with the 14 rest that's in the paragraph.</p> <p>15 BY MR. HEGARTY:</p> <p>16 Q. Well, the next sentence says: 17 "Women who undergo tubal ligation or 18 hysterectomy (nonpatent) and use powders in the 19 genital area cannot be assumed to have started 20 using them only after their surgeries." 21 Do you agree with that statement? 22 MS. PARFITT: Objection. 23 Form. 24 THE WITNESS: I haven't</p>	<p>1 group with nonpatent tubes, you find that there 2 are no statistical difference between the two, 3 correct? 4 MS. PARFITT: Objection. 5 Misstates her testimony. 6 THE WITNESS: I agree -- if 7 you're asking me do I agree that that is 8 written there? I absolutely do. 9 What I'm saying to you is, I 10 disagree that that's what the authors 11 themselves feel about their data. That's 12 all I'm saying to you. 13 I think that they're saying if 14 you read what -- read this response to 15 Dr. Harlow, they talk about it. They 16 talk about what their findings are. 17 They talk about the fact that 18 the findings are not -- may not all be 19 equally important and that there was, 20 indeed, the positive association is 21 consistent with the hypothesis that 22 there's an association, which is 23 different than using this study to draw 24 an overall conclusion.</p>
Page 199	Page 201
<p>1 looked at their data. So I can't -- 2 that's why I said to you. I'd have to go 3 look at the data to know if they have 4 that or not. I can't answer that.</p> <p>5 BY MR. HEGARTY:</p> <p>6 Q. If you continue down in that 7 paragraph, it says: 8 "The fact that there are no 9 significant differences in the HRs in the patent 10 and nonpatent groups where they list HR 1.13 and 11 HR .99, P value for heterogeneity comparing these 12 subgroups of .15 confirms the overall conclusion 13 that there is no demonstrable statistically 14 significant association between use of powder in 15 the genital area and ovarian cancer risk." 16 Do you see the sentence I'm reading 17 from? 18 A. You've read that correctly, and I 19 disagree based on what they -- the authors 20 themselves say about -- about their findings on 21 page 53 of my report. 22 Q. Well, that sentence is saying that 23 if you do a test for heterogeneity between the HRs 24 for the group with patent tubes and the HR for the</p>	<p>1 I don't think the authors are 2 doing that. I don't do that. No one 3 should do that. You should look across 4 all the data. 5 BY MR. HEGARTY: 6 Q. Do you agree a P value for 7 heterogeneity of .15 means that there is no 8 heterogeneity between the groups? 9 MS. PARFITT: Objection. 10 Misstates the article. Misstates the 11 science. Misstates -- 12 BY MR. HEGARTY: 13 Q. You can answer. 14 MS. PARFITT: -- her 15 testimony. 16 THE WITNESS: If you're 17 asking me simply as a general premise, if 18 you had a P value of .15, what conclusion 19 would you draw? Is that what you're 20 asking me? 21 BY MR. HEGARTY: 22 Q. Yes. 23 A. Okay. By that, I would say that I 24 have seen that conclusion drawn with those types</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 202	Page 204
<p>1 of values. 2 I'm saying to you, however, that's a 3 different question than what the actual -- the 4 actual authors draw about the conclusions -- 5 Q. Right. 6 A. -- of their study. 7 Q. And my question is simply as a 8 matter of epidemiological statistical analysis. 9 And you're familiar with statistical 10 analysis for epidemiologic studies, correct? 11 A. Yes, I am. 12 Q. And you agree when you compare two 13 HRs statistically and there is a test for 14 heterogeneity that comes out that's not 15 statistically significant, you can't say the two 16 values are different -- 17 MS. PARFITT: Objection. 18 BY MR. HEGARTY: 19 Q. -- correct? 20 MS. PARFITT: Objection. 21 Misstates her testimony. 22 THE WITNESS: So I think that 23 depends. I mean, on that question, if 24 you want to go that specific to -- to</p>	<p>1 highlighted by the statistically unsophisticated 2 reader as evidence of a relationship." 3 Did I read that correctly? 4 A. I'm looking where you are. I 5 apologize. I lost you. So... 6 Q. All right. 7 A. Oh, here it is. Okay. I'm sorry. 8 You did read that correctly. Yes, I 9 do see that line. 10 Q. Okay. Do you agree with that 11 statement? 12 MS. PARFITT: Objection. 13 Misstates her testimony. 14 THE WITNESS: I haven't 15 formed an opinion one way or the other on 16 this statement. As I told you, I have 17 not formed any opinions on this paper at 18 this point in time. 19 BY MR. HEGARTY: 20 Q. And why was it that you chose not to 21 cite the Gossett study within your amended MDL 22 report? 23 MS. PARFITT: Objection. 24 Form.</p>
Page 203	Page 205
<p>1 this data, I would point to the 2 epidemiologists in these cases, which are 3 going to deal with these issues. 4 I'm just -- I answered the 5 general premise question to you to tell 6 you my experience. I understand what 7 these tests are used for. So as a 8 general premise, I can see that done. 9 I am saying to you, however, 10 that I don't think it's a simplistic 11 saying that that one value is what should 12 drive your overall conclusions for the 13 study, and I think that's what is 14 consistent with what the authors 15 themselves are saying. 16 BY MR. HEGARTY: 17 Q. If we continue in that paragraph, it 18 says: 19 "The subgroup analysis suggesting 20 that women with intact reproductive tracts who use 21 powder in the perineal area developed ovarian 22 cancer more frequently than nonusers is below the 23 effect size that epidemiologists generally 24 consider important and should not be selectively</p>	<p>1 THE WITNESS: No particular 2 reason where I -- I can't tell you that I 3 have a particular reason for this was not 4 cited. I can tell you what I did cite, 5 which is what I believe to be 6 appropriate, which would be the authors' 7 own conclusions about their own findings. 8 And, again, it's -- it's how 9 when you do weight of the evidence, you 10 look at each individual piece of 11 information on its own and draw 12 conclusions based upon what that author 13 says about their own work. 14 And then you put that into an 15 analysis of what I as a scientist -- 16 conclusions I will draw or would draw 17 based upon what I see in that -- in that 18 data. 19 BY MR. HEGARTY: 20 Q. You don't know whether any of the 21 plaintiffs that were -- that were -- that are part 22 of the cases we're looking at, the MDL plaintiffs 23 or the Swann plaintiffs have patent or nonpatent 24 tubes, do you?</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 206	Page 208
<p>1 MS. PARFITT: Objection. It's 2 a case-specific question and Dr. Plunkett 3 is not here to give opinions on 4 case-specific issues. 5 THE WITNESS: I am -- I'm not 6 case-specific. 7 MS. PARFITT: Objection. 8 THE WITNESS: So I can't 9 answer that question for any of the 10 individual plaintiffs in this case. 11 BY MR. HEGARTY: 12 Q. If you would turn next to paragraph 13 75 in your report. 14 In that paragraph, you talk about 15 the Taher study, correct? 16 A. Somewhere here I think I do. Are 17 you -- are you -- you're further back in time, 18 though. You're paragraph 104? 19 MS. PARFITT: Paragraph 75. 20 BY MR. HEGARTY: 21 Q. I'm sorry. Paragraph 75. 22 A. 75. Oh, I'm sorry. 23 Q. Toward the end, you include an 24 analysis in this paragraph about the Taher study,</p>	<p>1 MS. PARFITT: Objection. 2 Form. Broad. 3 THE WITNESS: I don't know 4 quite what you mean by -- 5 MS. PARFITT: The analysis? 6 THE WITNESS: I don't know 7 quite what you mean, other than I think I 8 can tell you that I did cite to it. It's 9 part of my weight of the evidence. 10 Are you asking me something 11 else? 12 BY MR. HEGARTY: 13 Q. Well, do you agree with the way that 14 Taher analyzed the data to come to its 15 conclusions? 16 MS. PARFITT: Objection. 17 Form. 18 THE WITNESS: Well, I don't 19 disagree with his method. 20 BY MR. HEGARTY: 21 Q. Okay. 22 A. I mean, he's done a different. I 23 mean, I'm very familiar who this group is. I 24 actually know Dr. Krewski, Dr. Krishnan, and</p>
Page 207	Page 209
<p>1 correct? 2 A. Yes, I do. I talk about it down 3 here. 4 MR. HEGARTY: I'll mark as 5 Exhibit 17 the Taher paper. 6 (Document marked for 7 identification purposes as Plunkett 8 Exhibit 17.) 9 BY MR. HEGARTY: 10 Q. First of all, Health Canada relied 11 on this paper as part of the making its risk 12 assessment, correct? 13 MS. PARFITT: Objection. 14 Form. 15 THE WITNESS: It certainly 16 referred to this paper as part of the 17 work that they did, yes. They made 18 their -- Health Canada took this and then 19 they -- they developed their own 20 screening assessment outside of just this 21 paper. 22 BY MR. HEGARTY: 23 Q. Do you agree with the Taher analysis 24 as set out in Exhibit No. 17?</p>	<p>1 Dr. Madison to some extent. I know this group. I 2 know their reputation. So absolutely when I read 3 it, I wasn't -- I expected, as I did see, was I do 4 see a quality assessment in terms of what they've 5 gone through, but it's, you know, it is a piece of 6 evidence on its own. 7 It's not the only piece of evidence 8 that I think I or Health Canada, if you look at 9 what they did, relied upon. 10 Q. Do you agree with the conclusions 11 that the authors reached in the Taher paper? 12 MS. PARFITT: Objection. Is 13 there a specific question? Specific 14 conclusion? It is a multiple page study. 15 THE WITNESS: So in this -- 16 in the MDL, first off, I'm not providing 17 a causation analysis, right? 18 But certainly I see his -- are 19 you asking me about his conclusion that 20 perineal use of talc is a possible 21 cause -- 22 BY MR. HEGARTY: 23 Q. Correct. 24 A. -- of humans?</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 210	Page 212
<p>1 I think you should know, based on 2 testimony I've given in other cases, that I 3 believe perineal talc use can cause ovarian cancer 4 in women, yes. So that, I guess, we agree with 5 the fact that there is a causal connection, but 6 I'm not in the MDL providing a causation opinion. 7 Q. And the same is true for the Swann 8 case? 9 A. If it's part of the MDL or not? 10 It's a separate case? 11 Q. Swann is the state court, Missouri 12 case. 13 A. Oh, I'm not doing general causation, 14 no. 15 Q. Okay. 16 A. So unless you've been told I'm doing 17 general cause, which I don't think you've been 18 told that, then, no. 19 Q. What are the strengths and 20 weaknesses of the Taher article I've marked as 21 Exhibit No. 17? 22 MS. PARFITT: Objection. 23 Form. Broad. 24 THE WITNESS: So -- well,</p>	<p>1 you have to deal with the limitations on 2 the data you have, and I think they talk 3 about there's some, you know, some things 4 would be nice. 5 Like in the cohort studies, it 6 would have been really nice if we had 7 complete exposure information, which we 8 don't have. Things like that. 9 But I think the strengths of 10 this is, they did a detailed weight of 11 the evidence, and it's very transparent 12 for you. They lay it out in detail. 13 BY MR. HEGARTY: 14 Q. You said you know this group. 15 What do you know about some of these 16 folks in this group? 17 A. So I published with Dr. Krewski on 18 my public -- on my -- my list of publications, 19 you'll see I have a copper puff paper. So I have 20 met with him, worked with him one-on-one on 21 projects. And Dr. Krewski may be the last author 22 in this paper, but, boy, he is always a driver 23 between anything -- in anything he works on. 24 So I, you know, it is -- it is an</p>
Page 211	Page 213
<p>1 like all the papers that I look at, 2 luckily they give you a description of -- 3 of what -- what the strengths and 4 weaknesses are of the data they looked at 5 as individual pieces. 6 You know, they do provide -- 7 in fact, Dr. -- I mean, my earlier depo, 8 Ms. Branscome went through this issue 9 with me. She asked me questions about 10 the Klimisch scoring. She asked me 11 questions about all of that in here. 12 I think I told her that what I 13 see here is consistent with a weight of 14 the evidence like I've done, it's just 15 they've laid it out in a different way. 16 But I don't know how else to answer. 17 So the strength would be that 18 it's consistent with general methodology 19 used when you're doing a weight of the 20 evidence. Strength is that I know these 21 people. I know they're a high quality 22 group. 23 And then a weakness of any 24 publication is -- is that you can only --</p>	<p>1 issue of, I know the McLaughlin Centre for 2 Population Health Risk Assessment, which is where 3 Dan Krewski is. 4 And Dr. Taher I don't know 5 personally, but all of the people that I've ever 6 known that came out of his what I call group or 7 his oversight are good quality risk assessors. 8 Q. You make reference in this paragraph 9 to two papers by Wu. 10 Why did you add the two papers by Wu 11 to this paragraph? 12 A. You're in paragraph? 13 Q. Same paragraph. 14 A. Oh, I'm sorry. 15 Q. 75. 16 A. I think they were always in my 17 reliance list, if I remember correctly, but I'm 18 giving you ones that the 2006 panel did not have. 19 So if you read starting on page 55, I said it 20 should be noted that the 2006 IARC did not have 21 access to reports, and the Wu's are listed. 22 So what I did here in this report is 23 go ahead and give you a description of what each 24 of those are. It really was mainly for my</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 214	Page 216
<p>1 benefit. So if you asked me in a deposition I can 2 remember who Wu was based upon. But I just tried 3 to tell you what it was that they did generally 4 and lay it out as evidence that was not considered 5 by IARC, showing that there has been an 6 accumulation of evidence post-IARC.</p> <p>7 Q. You made reference to what the IARC 8 group did not have in front of it. You mentioned 9 the Wu paper.</p> <p>10 But IARC also did not have in front 11 of it the Gates 2010 paper, the Houghton 2014 12 paper, and the Gonzalez 2016 paper, correct?</p> <p>13 A. That is correct. Anything that came 14 after 2006 would not have been included in that 15 assessment.</p> <p>16 Q. But in your report, you don't make 17 reference to the IARC group not having those 18 studies either, correct?</p> <p>19 A. That is correct. I do not.</p> <p>20 Q. Why didn't you do that?</p> <p>21 A. No particular reason to not include 22 them. It's just that these are -- I'm citing for 23 you the evidence that I think is additional 24 information for the weight of the evidence.</p>	<p>1 Q. How about since you left ENVIRON? 2 A. Probably not, no. 3 Q. And how -- in what way did you deal 4 directly with PCPC when you were at ENVIRON? 5 A. So we worked on projects where PCPC 6 were in meetings with clients of ours that, you 7 know, we would have a meeting with a client. PCPC 8 would also be in the meeting. I don't know that 9 we only ever worked for the PCPC, but certainly we 10 did work on issues that involved the client as 11 well as the PCPC.</p> <p>12 Q. The next paragraph, number 90, you 13 also added; is that correct?</p> <p>14 A. Yes, that's correct.</p> <p>15 Q. And why did you add that paragraph?</p> <p>16 A. Again, I think this would be 17 consistent with additional documents that I either 18 discussed at trial testimony -- during trial 19 testimony or -- and so I was trying to give a 20 little more detail in terms of some of the 21 additional evidence or themes that had been 22 developed since my initial MDL report.</p> <p>23 Q. At the beginning of that paragraph, 24 you say, you make the statement:</p>
<p>1 In other words, these are studies 2 that add to that weight showing that there is a 3 statistically significant increased risk in human 4 populations that have been looked at. It's not to 5 say that there aren't studies that don't show a 6 statistically significant increased risk, but 7 these studies do.</p> <p>8 Q. The next paragraph I want to look at 9 is paragraph 89 of your report.</p> <p>10 This is a new paragraph; is that 11 correct?</p> <p>12 A. Yes, this was a new document that I 13 had -- new -- new documents in terms of opinions 14 expressed. I believe they were brought out either 15 from depositions that I read, and I think that's 16 where I got these from. These may be old 17 documents in terms of time, but documents that 18 were discussed in either later testimony or other 19 things that occurred after I wrote my report in 20 terms of my trial testimony.</p> <p>21 Q. Have you ever dealt directly with 22 the PCPC?</p> <p>23 A. Yes, I have, when I worked at 24 ENVIRON.</p>	<p>1 "The influence of industry on FDA 2 actions." 3 What do you mean by that phrase 4 "influence of industry"?</p> <p>5 A. It's -- well, it's the evidence 6 showing that when -- when it came to interactions 7 on the issues related to talc, industry being 8 either through the PCPC or industry themselves, 9 people from Imerys or people from J&J, were having 10 direct interactions with FDA staff.</p> <p>11 And in my view, if you read the 12 documents where they describe the actions being 13 taken and the relationship -- some of those we've 14 talked about at trials -- it's the idea that -- in 15 fact, in the last trial, we talked about Johnson & 16 Johnson employees talking about -- and the Imerys 17 employees talking about John Bailey being the 18 person at FDA to carry their water. It's those 19 issues.</p> <p>20 It's the idea of the fact that, in 21 my view, there was influence that I don't think, 22 in my view, was -- was appropriate in terms of 23 what I would tell my clients to do in their 24 interactions with -- with the FDA.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 218	Page 220
<p>1 And many FDA employees -- well, the 2 two people that work for me right now or work with 3 me right now -- will talk to you about the ethics 4 at FDA, and that's different than what we're 5 seeing in some of these documents that occurred. 6 Q. Is it your opinion that without the 7 influence that you cite in these new paragraphs 89 8 and 90 that FDA would have done something 9 different than what they have done so far to date? 10 MS. PARFITT: Objection. 11 Form. 12 THE WITNESS: I don't think I 13 formed that opinion because I think these 14 paragraphs have to do with specific 15 instances where I do believe that, 16 without the influence on the NTP process, 17 there might have been a very different 18 finding in terms of the listing of NTP. 19 A listing in the 10th RoC. That's 20 paragraph 90. 21 So I do believe that the 22 influence of industry and industry 23 themselves, the individual at the 24 companies are talking about their wins in</p>	<p>1 know, unfortunately, because this 2 influence was part of -- part of what 3 happened. 4 I can tell you based on what I 5 believe is, in my view, not appropriate 6 based upon my working with the industry 7 or what I would influence -- I would tell 8 my -- my clients to do. 9 And I also, like I said, I 10 have -- I have personal knowledge now of 11 what people tell me people that work at 12 FDA say about the kinds of interactions 13 they're allowed to have or not have, and 14 I think that what was going on here was 15 inconsistent with that. BY MR. HEGARTY: Q. In paragraph 91, you refer to the PCPC and industry representatives failing to provide FDA with accurate description of their knowledge of talc safety. Do you see that -- A. Where? Q. -- addition? A. No. I'm looking now.</p>
<p>Page 219</p> <p>1 terms of influencing the process. Not 2 getting a listing for talc with the NTP. 3 So that's the opinions I formed. 4 I haven't formed the opinion 5 the way you've expressed it. BY MR. HEGARTY: Q. Yeah. My question was specific to FDA. You understood that? A. I did and I answered it first. I thought I said that to you first. I can look. Q. So you're not going to provide the opinion that one way -- any type of opinion as to relates to what FDA would have done with regard to talc absent this what you call influence -- MS. PARFITT: Objection. Form. BY MR. HEGARTY: Q. -- that you cite in these two paragraphs? MS. PARFITT: I'm sorry. Objection. Form. THE WITNESS: I think that's a crystal ball question. We'll never</p>	<p>Page 221</p> <p>1 MS. PARFITT: Here you go. BY MR. HEGARTY: Q. It's in the first part of -- A. Okay. Q. -- I think paragraph 91. Do you see where I'm reading from? A. I do see that now. Starting with "A review of the minutes"? Q. Correct. A. Yes. Okay. Q. Who are the industry representatives you're referring to in that addition to this paragraph? A. I would have to pull the document out to look at it. So who was at the meeting. But the Talc Interested Party, it's referring to a meeting of those folks. There would be -- should be J&J people there. There should be Imerys people there. There should be maybe Colgate Palmolive there. Typically those were all members of the -- of the -- of the Talc Interested Party task force, including PCPC. Q. To what are you referring to when you say that these representatives failed to</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 222	Page 224
<p>1 provide FDA with accurate information -- accurate 2 description of their cosmetic talc safety? To 3 what documents are you referring to, if any?</p> <p>4 A. Well, I'm referring to -- I give you 5 examples. I say here. When you look at the 6 minutes to the meeting, I'm saying here examples 7 would be the knowledge that U.S. samples of 8 cosmetic talc were not asbestos-free, and I 9 believe that document talks about it being 10 asbestos-free. They also -- and I point you there 11 to the issue of a listing of talc. So that's an 12 example.</p> <p>13 Q. Okay.</p> <p>14 A. If you need other examples, let me 15 pull the document out and I could try to help you 16 with that but...</p> <p>17 Q. That's okay.</p> <p>18 You refer in this paragraph to 19 Ms. Wille's affidavit and deposition testimony, 20 correct?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Have you read both her affidavit and 23 deposition testimony?</p> <p>24 A. I have.</p>	<p>1 THE WITNESS: I think I just 2 told you what my opinion was. 3 I said when I see the 4 affidavit and then read her deposition 5 testimony, I questioned her -- her 6 affidavit because of the lack of memory 7 she has about almost everything else she 8 talks about.</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. Okay.</p> <p>11 A. That's what I'm saying to you. It's 12 an issue. I as an expert can look at the 13 credibility of the evidence, and I'm just saying 14 to you: When I read her deposition testimony, she 15 clearly has no memory of almost anything and, as a 16 result, the question is, how is there such a 17 specific memory of that?</p> <p>18 But the evidence will speak for 19 itself. You know, a jury can decide what's 20 credible and it's not, too, on their own. I'm 21 just telling you it's my opinion that the 22 deposition testimony cast doubt on credibility.</p> <p>23 Q. Have you read the entirety of Steve 24 Mann's deposition?</p>
Page 223	Page 225
<p>1 Q. Are you saying by this paragraph 2 that Ms. Wille was not truthful in her affidavit 3 and deposition testimony?</p> <p>4 A. I don't have proof that she wasn't 5 truthful, but in my view, when I read her 6 deposition testimony where she continually says 7 she doesn't remember, doesn't remember, doesn't 8 remember, but yet she's so definitive in her 9 affidavit, I do question -- I do question that in 10 my mind.</p> <p>11 But certainly it will speak for 12 itself and obviously that's what I would -- you 13 notice I don't say anything further than just say 14 this exists, but I felt I needed to do this 15 because during trial, these documents were put 16 before me. So, again, I'm adding that in here 17 because this is something I know came up at trial.</p> <p>18 Q. Well, for purposes of your opinions 19 as set out in the amended MDL report, are you 20 choosing not to believe Ms. Wille in her affidavit 21 or her deposition testimony about this issue of -- 22 that you describe in this paragraph?</p> <p>23 MS. PARFITT: Objection. 24 Form. Asked and answered.</p>	<p>1 A. I have.</p> <p>2 Q. Have you read the entirety of 3 Ms. Telofski's deposition?</p> <p>4 A. She has more than one, doesn't she?</p> <p>5 Q. Her most recent one in 2021?</p> <p>6 A. It's on my list, yes. I have read 7 that. It's been a while, but I have read that, 8 yes.</p> <p>9 Q. Have you read the Nettesheim 10 deposition as well?</p> <p>11 A. Yes. All of the new ones I added, I 12 have read.</p> <p>13 Q. If you would turn next to paragraph 14 96. At the end of that paragraph, you added the 15 statement: 16 "Evidence in this case shows that 17 Defendants failed to perform such testing, despite 18 awareness of safety concerns with cosmetic talc." 19 Do you see where I'm reading?</p> <p>20 A. Yes.</p> <p>21 Q. Do you have an opinion as to what 22 such testing should have been done?</p> <p>23 A. I don't think I formed the opinion 24 that a specific study should be done, but it's</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 226	Page 228
<p>1 very clear that no studies were done on this issue 2 by the company. So I think it's more of an issue 3 of what they didn't do versus should they have 4 done this test, that test, that test. I haven't 5 formed that specific opinion yet.</p> <p>6 Q. Is there any published authority 7 that defines what tests a manufacturer of a talcum 8 powder product should do to establish its safety?</p> <p>9 MS. PARFITT: Objection.</p> <p>10 Form.</p> <p>11 THE WITNESS: So the 12 regulations in the U.S. do not prescribe 13 a specific number of tests, and if you 14 read the guidance that is there on the 15 FDA website for cosmetics, it talks about 16 the fact that the company is supposed to 17 ensure that the product is safe as used. 18 And if they don't know if it's safe, they 19 have to inform consumers that they don't 20 know.</p> <p>21 And neither of those -- 22 neither -- I don't see -- see either of 23 those things happening in this case.</p> <p>24 BY MR. HEGARTY:</p>	<p>1 Q. And have you formed opinions in this 2 case about what tests Johnson & Johnson should 3 have conducted to establish the safety of its baby 4 powder products?</p> <p>5 A. I have not put together a specific 6 list of tests that they should have done. 7 Instead, what I pointed out is that the test that 8 -- the studies that were available to them, in my 9 opinion, provided them the notice and the 10 knowledge that they didn't act upon. 11 So I do think that there's data -- 12 reliable data out there they didn't support, but 13 they don't use in terms of what that notice should 14 have triggered in terms of either a warning on the 15 product. Or in the case of what I've heard some 16 of the -- I've seen in the testimony of J&J, 17 they've said numerous time that if we had any -- 18 had any reason to believe there was a problem, we 19 would take it off the market, and they haven't 20 done that either. So... 21 Q. Do you have an opinion as to what 22 any such test would show as it relates to the 23 safety of talcum powder products if they had been 24 done?</p>
Page 227	Page 229
<p>1 Q. Are you an expert on what tests 2 should be done to ensure the safety of a talcum 3 powder product?</p> <p>4 MS. PARFITT: Objection.</p> <p>5 Form.</p> <p>6 THE WITNESS: So as a 7 toxicologist, I certainly have expertise 8 and I have given advice to my clients on 9 what types of testing to do for cosmetic 10 ingredients or even cosmetic products. 11 So I do have that expertise, yes.</p> <p>12 BY MR. HEGARTY:</p> <p>13 Q. Do you have -- are you an expert on 14 what, though, a talcum powder product manufacturer 15 should do to ensure the safety of its talc with 16 regard to testing?</p> <p>17 A. Are you asking me about testing for 18 purity or testing for safety?</p> <p>19 Q. Testing for safety.</p> <p>20 A. So I certainly have that expertise, 21 yes, because it's -- it's the same expertise that 22 I would apply to any of my --</p> <p>23 Q. Okay.</p> <p>24 A. -- my clients.</p>	<p>1 MS. PARFITT: Objection. 2 Form. 3 THE WITNESS: Oh, I think -- 4 MS. PARFITT: Vague. 5 THE WITNESS: I think you can 6 go to the literature. I would answer 7 that in general terms. The literature. 8 Studies show us if they had done studies 9 like the ones in the published 10 literature, what they would expect to 11 get, yeah. 12 I mean, if you look at the 13 chinchilla study or you look at the 14 Hamilton study or you look at the 15 Buz'Zard study or you look at the 16 Fletcher studies or you look at -- oh, 17 there's a whole list of studies that you 18 could go through, animal. 19 And then you can go to the 20 epidemiological research and sponsoring 21 their own epidemiological research years 22 ago, which hasn't been done. 23 BY MR. HEGARTY: 24 Q. Do you have an opinion in this case</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 230	Page 232
<p>1 as to whether there are any tests that are not -- 2 that have not been done on talcum powder products 3 as far as their safety that should be done?</p> <p>4 MS. PARFITT: Objection. I 5 believe her testimony was there were no 6 tests done. Vague.</p> <p>7 BY MR. HEGARTY:</p> <p>8 Q. And then to be clear, I'm talking 9 about you mentioned that all this testing that's 10 already out there that's already been done in the 11 public domain.</p> <p>12 A. Right.</p> <p>13 Q. Do you have any opinion as to 14 whether there are additional tests beyond those 15 that still be should be done?</p> <p>16 A. I do have an opinion.</p> <p>17 MS. PARFITT: By the company?</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. Okay. By the company.</p> <p>20 A. I do have an opinion.</p> <p>21 Q. Okay. What is that?</p> <p>22 A. My opinion is, there's more than 23 enough data already out there for the company to 24 take action to either remove the product from the</p>	<p>1 of baby powder? 2 A. The things on their own website. 3 So -- and if you need the citation, I apologize 4 for not giving you, but you can go to the Johnson 5 & Johnson website. There's also some press 6 releases. I think Reuters had an article that we 7 may have talked about in one of the trials. So 8 there's some press as well as their own website. 9 MR. HEGARTY: Did you -- let 10 me go ahead and mark that press release. 11 I mark as Exhibit No. 18 the Johnson & 12 Johnson press release -- 13 MS. PARFITT: Thank you. 14 MR. HEGARTY: -- of May 19, 15 2020. 16 (Document marked for 17 identification as Plunkett Exhibit 18.) 18 BY MR. HEGARTY: 19 Q. Have you seen that document? 20 A. I have seen this document, yes. 21 Q. I think that's Exhibit 18? 22 A. Yes. 23 Q. Have you reviewed the deposition 24 testimony of any company witnesses regarding the</p>
<p>1 market or add a warning. There would -- in my 2 view, there would be no need to do. The data has 3 been there for decades.</p> <p>4 But there's -- I mean, if you want 5 to ask me in a science question, we can talk about 6 that all day, but, I mean, I think this is what 7 I've told you already before. That I believe that 8 there's enough evidence to have. The company 9 should have taken an action years ago.</p> <p>10 Q. If you would next turn to paragraph 11 109. You mention in that paragraph the 12 discontinuation of Johnson's Baby Powder. I'm 13 sorry. This is in paragraph 110.</p> <p>14 A. Okay.</p> <p>15 Q. You mention in paragraph 110 Johnson 16 & Johnson's discontinuation of baby powder, 17 correct?</p> <p>18 A. I talk about the removal of 19 constituents. Oh, you're -- the very last 20 sentence?</p> <p>21 Q. Very last sentence.</p> <p>22 A. Yeah. Yeah. I state a fact, yes.</p> <p>23 Q. What documents have you reviewed 24 that discuss Johnson & Johnson's discontinuation</p>	<p>1 discontinuation of baby powder? 2 A. I believe it's addressed maybe by 3 trial testimony of Dr. Gorsky -- Mr. Gorsky. I'll 4 have to look. I do believe there's some testimony 5 about -- that I've read about this, but it may be 6 trial testimony, not deposition. 7 Q. Do you cite in your report where you 8 talk about the discontinuation, any deposition or 9 trial testimony you've read about Johnson & 10 Johnson's decision to discontinue the product? 11 A. No, because all I'm trying to do in 12 this sentence is state a fact. I'm not -- I'm not 13 arguing a point. I'm saying this is what -- this 14 is what has happened. 15 Q. Do you intend to testify that the 16 discontinuation was for reasons other than what's 17 stated in Exhibit No. 18? 18 MS. PARFITT: Objection. 19 Form. 20 THE WITNESS: Well, if you're 21 asking me to get into the mind of the -- 22 of the individuals, I can't do that. I 23 don't testify about their motivation 24 because I haven't, you know, can't get</p>

Laura M. Plunkett, Ph.D, D.A.B.T.

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 238	Page 240
<p>1 the record. 2 I want to mark next the 3 notices of the two depositions for the 4 MDL and the Swann case as Exhibits 19 and 5 20. 6 (Document marked for 7 identification as Plunkett Exhibit 19.) 8 (Document marked for 9 identification as Plunkett Exhibit 20.) 10 BY MR. HEGARTY: 11 Q. And with regard to the documents 12 requested, Dr. Plunkett, did you have a chance to 13 go through the paragraphs requesting documents? 14 A. Yeah. I'm trying to decide if I've 15 seen both of these. 16 Q. Just focus on the MDL one -- 17 A. Okay. 18 Q. -- because it's identical. 19 Have you seen the MDL notice? 20 A. Yes, that I have. That's the one. 21 Q. You went through the paragraphs in 22 the MDL notice? 23 A. Yeah, and I helped identify. You 24 asked me a question earlier. I said this would</p>	<p>1 (Document marked for 2 identification as Plunkett Exhibit 21.) 3 BY MR. HEGARTY: 4 Q. And with regard to the -- to 5 paragraph 7 in that document, supplemental 6 materials provided between August 1 to August 10, 7 2021. 8 Do you see that reference? 9 A. Yes. 10 Q. What are those supplemental 11 materials? 12 A. It's -- you had a list of those. 13 Remember? 14 Q. Is it this list, Exhibit 9? 15 A. No. No. No. No. It's that -- you 16 had a little. A shorter document we marked. It's 17 not this thing. You had things reviewed or 18 something. You showed it to me. 19 MS. PARFITT: And I did not 20 get a copy. You have the only one. 21 BY MR. HEGARTY: 22 Q. Is it this exhibit, Exhibit 11? 23 A. Yes, that's it. That -- that goes 24 with number -- where is that?</p>
Page 239	Page 241
<p>1 help me know where that document came from, that 2 kind of thing. So, yeah. 3 Q. And did you provide your counsel 4 with any responsive documents to those paragraphs? 5 A. Yes, I did, and mostly I just told 6 them what documents that within my reliance 7 materials they needed to provide or I sent them, 8 for example, my new trial list, things like that. 9 Yeah. 10 MS. PARFITT: And for the 11 record, Mark, we produced a letter 12 August 6, 2021 to you. 13 MR. HEGARTY: Right, and I'm 14 going to mark this here in a moment. 15 MS. PARFITT: Which is in 16 response directly to the notice of 17 deposition. 18 MR. HEGARTY: I'll just go 19 ahead and mark that since you brought 20 that up. 21 MS. PARFITT: Okay. 22 MR. HEGARTY: I'll mark as 23 Exhibit No. 21 an August 6, 2021 letter 24 from Ms. Parfitt to Ms. Sharko.</p>	<p>1 Q. 7? 2 A. Number 7, yeah. 3 Q. Are these materials you had reviewed 4 only for the first time between August 1 and 5 August 10, 2021? 6 A. No. Some of these are not. Some of 7 these are ones that obviously I had -- I had 8 already considered before. 9 Q. Which ones? 10 A. So there may be a few mistakes on 11 here. Like, for example, I would not have put 12 McDonald 2019 on here because they obviously -- I 13 had that in my -- that should have been in my 14 reliance materials for the Cadigan trial, in fact, 15 earlier that was presented. So it may not have 16 been on my MDL list before. So that may be the 17 issue. 18 MS. PARFITT: I'll 19 represent -- 20 BY MR. HEGARTY: 21 Q. Can you identify which of those you 22 have seen -- you have only seen -- you have only 23 seen for the first time since August 1, 2021? 24 A. Okay. So that would be any of</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 242	Page 244
<p>1 the -- the Kuffner document. That may not even be 2 on here. The -- hold on. Okay. So I wouldn't 3 have put August 1st. I think there's a number of 4 these that should go back to the Cadigan trial, 5 which would be July, okay?</p> <p>6 So, for example, this EPA comments 7 document I hadn't. That was a surprise to me at 8 the trial. I admit that, right? So that would be 9 there.</p> <p>10 Q. What else --</p> <p>11 A. Let me see.</p> <p>12 Q. -- is new since either July or 13 August 1st?</p> <p>14 A. Yeah, okay. I think I had 9. No. 15 No. I had that. I had that.</p> <p>16 So you did not know that I had 17 reviewed this color advertisement. I doubt that 18 was on my material, my reliance list before, but I 19 had reviewed that before. So that is new to you 20 to ask questions about, okay?</p> <p>21 Q. Okay. And not new to you?</p> <p>22 A. No, it's not new to me, and that's 23 what I'm saying. I don't think there's anything 24 really new. The only thing that I can see on here</p>	<p>1 Q. I think it's on page 3 where you see 2 your name?</p> <p>3 A. I see that, yes.</p> <p>4 Q. Would you look at that paragraph and 5 tell me whether you have ever seen it before right 6 now in this document?</p> <p>7 A. I don't know that I've seen this 8 document, but I've seen this -- something very 9 similar to this in my other -- other times I've 10 seen documents where I've been listed as an 11 expert.</p> <p>12 Q. And is your testimony -- your 13 anticipated testimony in the MDL based on your 14 amended report as well as your deposition and 15 trial testimony up through the present day what 16 you plan on testifying in the Swann case as well?</p> <p>17 A. Yes, that's my understanding. I 18 have had -- I have had no other information that 19 would indicate otherwise.</p> <p>20 Q. Have you prepared any invoice 21 containing any time dedicated to the Swann case?</p> <p>22 A. No.</p> <p>23 Q. If we could go back to your report, 24 I just --</p>
<p>1 that was, quote-unquote, new to me would have been 2 this EPA document.</p> <p>3 Q. Okay.</p> <p>4 A. But -- and the fact that I gave you 5 an updated trial list.</p> <p>6 Q. Okay.</p> <p>7 A. So I think otherwise.</p> <p>8 MR. HEGARTY: All right. You 9 can set that aside.</p> <p>10 Next mark as Exhibit 22 11 your -- the Plaintiff's Amended 12 Disclosure of Expert Witnesses in the 13 Swann case, and I seem to have only one 14 copy of it.</p> <p>15 MS. PARFITT: That's fine.</p> <p>16 MR. HEGARTY: If you guys 17 could share.</p> <p>18 (Document marked for 19 identification as Plunkett Exhibit 22.)</p> <p>20 BY MR. HEGARTY:</p> <p>21 Q. Would you look over at page or 22 paragraph 2 I think is on page --</p> <p>23 MS. PARFITT: He knows Swann.</p> <p>24 BY MR. HEGARTY:</p>	<p>1 A. Oh, wait a minute. Did you check? 2 I can't say that without looking at that one bill. 3 Was that one bill that had all those cases?</p> <p>4 Q. Yeah. If you want to go back and 5 look at that.</p> <p>6 A. Yeah, let me look at that. I just 7 remembered that. Sorry. There it is.</p> <p>8 Q. It should be Exhibit No. 2.</p> <p>9 A. Yes. Let me just check to make sure 10 if Swann is listed there or not.</p> <p>11 Yes, it is listed. So, yes.</p> <p>12 Q. Okay.</p> <p>13 A. Valerie Swann?</p> <p>14 Q. Yes.</p> <p>15 A. Yes. So I had charged 2 hours for 16 docket review sometime before, probably in January 17 or December. December 2020 or January 2021.</p> <p>18 Q. Okay. If you could go back to your 19 report, paragraph 53, and tell me when you are 20 there. I'm sorry. I'm sorry. It's paragraph 52.</p> <p>21 A. Okay. I'm there.</p> <p>22 Q. You added to this paragraph a 23 reference to the Lauchlan 1994 paper, correct?</p> <p>24 A. Yes, that's correct.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 246	Page 248
<p>1 Q. Why did you add this paper? 2 A. Because it was an additional piece 3 of information that I had that was relevant to 4 migration. That and I added the Alexander paper, 5 too, to this general discussion. 6 Q. With regard to the Lauchlan paper, 7 when did you first read this paper in relation to 8 your preparing your amended report? 9 A. Sometime after my original report. 10 So I can't tell you what date in 2019 or 2020 it 11 would have been, but sometime after my original 12 report, I believe. 13 Q. And how did you come across it, if 14 you can recall? 15 A. If you show it to me, maybe that 16 will trigger something. I apologize. 17 MR. HEGARTY: I'll mark as 18 Exhibit 23 the Lauchlan paper we've been 19 talking about. 20 (Document marked for 21 identification as Plunkett Exhibit 23.) 22 MS. PARFITT: Thank you. 23 (Off the record discussion.) 24 THE WITNESS: Do you want me</p>	<p>1 Q. And my question is: As it relates 2 throughout the document, it doesn't cite to any 3 study that actually looked at whether particles 4 applied externally to the perineum, talc or 5 otherwise, can reach the ovaries or did reach the 6 ovaries? 7 MS. PARFITT: Objection. 8 THE WITNESS: (Reviews 9 document.) 10 They don't provide a specific 11 study on talc that was applied to the 12 perineum, no. Instead, they are talking 13 about the general literature, like I did, 14 and the old literature about looking at 15 particles that are similar to talc. 16 And then this particular 17 author then is taking that to the next 18 step. He's -- he's talking about the 19 fact that it's from Parmley and Woodruff. 20 Causative agents for ovarian cancer could 21 gain access through this route, and then 22 he talks about the issue with talc. 23 So, no, I don't think it's a 24 piece of data the way you're asking it.</p>
<p>1 to answer? 2 BY MR. HEGARTY: 3 Q. Sure. 4 A. I'm sorry. 5 Q. The question was: Do you recall 6 where you obtained -- from where you obtained the 7 document? 8 A. No. It could be one that I found in 9 my research or it could be one that was within -- 10 cited by someone else in an expert report. I 11 don't know, but I am certainly this is one I had. 12 In fact, I may have even had this before my 13 original MDL report. It's possible. I just don't 14 recall. 15 Q. Do you agree that with regard to the 16 Lauchlan study that it cites no published article 17 that analyzed whether particles applied to the 18 perineum, talc or otherwise, can reach the 19 ovaries? 20 MS. PARFITT: Objection. Are 21 you referring to a specific paragraph? 22 THE WITNESS: Yeah. Yeah. 23 There's a talc section. So let me look. 24 BY MR. HEGARTY:</p>	<p>1 BY MR. HEGARTY: 2 Q. Okay. If you turn next to paragraph 3 55? 4 A. Okay. 5 Q. In that paragraph, you refer to a 6 study by McDonald and colleagues, correct? 7 A. Yes. There's two studies. 8 Q. And by Johnson as well, right? 9 A. Yes. There's three studies, yes. 10 Q. Two studies by McDonald and a study 11 by Johnson, correct? 12 A. Yes. Exactly. 13 Q. And do you understand that the 14 authors -- some of the authors of those two papers 15 are experts for plaintiffs in the talc litigation? 16 A. On the McDonald papers, yes, I'm 17 aware of that. Johnson paper I need to see the 18 other list. I can't answer that without looking 19 at the list. 20 MR. HEGARTY: I'll mark as 21 Exhibit 24 the Johnson article that you 22 cite in your amended report. 23 THE WITNESS: Yeah. 24 (Document marked for</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 250	Page 252
<p>1 identification as Plunkett Exhibit 24.) 2 THE WITNESS: Yes. Okay. It 3 is. It's Dr. Godleski's group. So, yes, 4 I'm aware of that. 5 BY MR. HEGARTY: 6 Q. And are you aware that the authors 7 of the Johnson study paid for it themselves? 8 MS. PARFITT: Objection. 9 Form. 10 BY MR. HEGARTY: 11 Q. And you can look at the -- 12 A. I need to look. 13 Q. -- very last page on the financial 14 support section. 15 A. I see that. That's what they say, 16 yes. 17 Q. Neither the McDonald papers nor the 18 Johnson papers identify any asbestos, correct? 19 A. I'd have to look, but I don't 20 believe that's true. I would say to you I believe 21 that -- that you have a correct statement, but 22 I -- to confirm, I'd have to look at them again. 23 Q. They don't refer to fibrous talc 24 either, correct?</p>	<p>1 has shown that in his work, fibers as well as talc 2 particles. I believe he's seen both. If you want 3 me to tell you whether he reports either of those 4 in these three papers, I'd have to look. 5 Q. If we -- 6 A. But -- 7 Q. If we set aside the studies by 8 McDonald and Johnson because we might have to go 9 and look at them in detail, are you aware of any 10 studies that tried to evaluate the migration of 11 fibers from the vagina to the tubes and ovaries? 12 MS. PARFITT: Objection. 13 Other than what she's provided in prior 14 depositions and her reports. 15 THE WITNESS: So I would say 16 to you, depending on the size of a fiber, 17 they would fit within the studies that 18 talk about particles. 19 So the fiber could if the 20 fiber is of a size that's similar to some 21 of the particles that have been studied, 22 and I'd have to do that comparison in 23 order to -- to look at what fiber you're 24 talking about.</p>
<p>1 MS. PARFITT: Objection. 2 Form. 3 THE WITNESS: I'd have to 4 look. I can't -- in order to answer that 5 question, I'd have to look whether or not 6 they call -- they talk about fibers or 7 not. I don't know. I'd have to look. 8 They do actually, I think, in 9 this paper talk about things that are -- 10 have the width and diameter of 11 potentially being fibers. This is the 12 Johnson paper, but I'd have to look to 13 tell you. I don't know. 14 BY MR. HEGARTY: 15 Q. Can you cite for me any study that 16 shows migration of talc fibers from the perineum 17 to the ovaries? 18 MS. PARFITT: Other than this 19 study? 20 BY MR. HEGARTY: 21 Q. Including any study. Can you cite 22 for me any study that purports to show migration 23 of talc fibers from the perineum to the ovaries? 24 A. Well, I believe that Dr. Godleski</p>	<p>1 But I do believe whether it's 2 a fibrous talc or whether it's a talc 3 particle that may include platy talc plus 4 fibers within it -- because the particle 5 could be -- could be a complex mixture of 6 those things -- it's possible that those 7 things are occurring that way. 8 Then I think that there is 9 evidence to show that talc can migrate of 10 the -- of the size that is found within 11 baby powder, and obviously baby powder is 12 of a size that includes at 13 microscopically both fibers and 14 particles -- and smaller particles. 15 BY MR. HEGARTY: 16 Q. If we go back to paragraph 55, you 17 include a quotation to a portion of the Johnson 18 study that was discussed in the Health Canada risk 19 assessment, correct? 20 A. Yes, that's correct. 21 Q. And with regard to that cited 22 passage in your report that refers to reactive 23 fibroblastic tissue or chronically inflamed 24 tissue.</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 254	Page 256
<p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. Now, with regard to ovarian cancer,</p> <p>4 both of these types of tissues can arise from the</p> <p>5 cancer itself, correct?</p> <p>6 A. Oh, I think you should talk to an</p> <p>7 ovarian cancer pathogenesis person about that.</p> <p>8 Q. Okay. So fair enough.</p> <p>9 And the same question goes as to</p> <p>10 whether you know both of those types of tissues</p> <p>11 can arise from chemotherapy?</p> <p>12 A. Same.</p> <p>13 MS. PARFITT: Objection.</p> <p>14 THE WITNESS: It would be the</p> <p>15 same answer. I think you should talk to</p> <p>16 someone who is an expert in looking at</p> <p>17 those tumors under the microscope.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. With respect to the statement in the</p> <p>20 cited portion that you include in your report that</p> <p>21 says with respect to "the presumption is that talc</p> <p>22 accumulates in benign tissue some time prior to</p> <p>23 the tumour developing."</p> <p>24 Do you see that part of the quote?</p>	<p>1 Can you cite for me then any studies</p> <p>2 showing this accumulation of tissue in women prior</p> <p>3 to diagnosis of ovarian cancer but then later are</p> <p>4 diagnosed with ovarian cancer?</p> <p>5 MS. PARFITT: Objection.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 I have no idea. You'd have to ask -- I</p> <p>8 think you could ask the pathologist in</p> <p>9 this case. Maybe he has seen such</p> <p>10 samples.</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. Are you an expert in the type of</p> <p>13 studies conducted in the Johnson and McDonald</p> <p>14 papers?</p> <p>15 MS. PARFITT: Objection.</p> <p>16 Form.</p> <p>17 THE WITNESS: If are you</p> <p>18 asking me, am I an expert in performing</p> <p>19 these studies? No. I have expertise in</p> <p>20 understanding the importance of this kind</p> <p>21 of data, however.</p> <p>22 I am familiar with and have</p> <p>23 expertise in understanding the importance</p> <p>24 of electron microscopy in looking at</p>
<p>Page 255</p> <p>1 A. Yes, I do.</p> <p>2 Q. Did you cite any published reporting</p> <p>3 an accumulation of talc and tissue prior to tumor</p> <p>4 development?</p> <p>5 A. Yes. The -- the NTP rat study shows</p> <p>6 accumulation of talc -- micronized talc in tissue</p> <p>7 prior. Remember I used that with the issue of</p> <p>8 preneoplastic lesions that develop in the area of</p> <p>9 the talc. And then the chinchilla study. I point</p> <p>10 you to that as well.</p> <p>11 And I'd also point you to the rat</p> <p>12 ovarian bursal study, which is Hamilton, I think.</p> <p>13 I may have that -- or Davies. One of the two.</p> <p>14 Yeah.</p> <p>15 Q. Can you cite any authorities seeing</p> <p>16 this accumulation in tissue in women who later</p> <p>17 developed ovarian cancer?</p> <p>18 A. Accumulation in benign tissue?</p> <p>19 Q. Correct.</p> <p>20 A. Well, I think that's what they're</p> <p>21 talking about here. They're talking about the</p> <p>22 Johnson paper where they talk about benign tissue.</p> <p>23 Q. And my question -- I need to be more</p> <p>24 specific then.</p>	<p>Page 257</p> <p>1 these kinds of tissues for these types of</p> <p>2 particles, but I don't do this kind of</p> <p>3 work.</p> <p>4 BY MR. HEGARTY:</p> <p>5 Q. If you would turn next to paragraph</p> <p>6 62 in your report.</p> <p>7 A. Yes, I'm there.</p> <p>8 Q. In that paragraph, you discuss in</p> <p>9 some detail the Mandarino 2020 study, correct?</p> <p>10 A. I think that's what was new here,</p> <p>11 correct?</p> <p>12 Q. Correct.</p> <p>13 A. Yeah. I'm looking where it starts.</p> <p>14 So...</p> <p>15 Q. Starts towards the bottom.</p> <p>16 A. Oh, here it is. Yes, I find it.</p> <p>17 Yes.</p> <p>18 MR. HEGARTY: And I'll mark as</p> <p>19 Exhibit 25 the Mandarino 2020 study.</p> <p>20 (Document marked for</p> <p>21 identification as Plunkett Exhibit 25.)</p> <p>22 MS. PARFITT: Thank you.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. The Mandarino study that you cite</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 258	Page 260
<p>1 refers to mouse cells, right?</p> <p>2 A. Yes, that's correct. They're</p> <p>3 looking at marine ovarian epithelial cells.</p> <p>4 Q. And, again, are you an expert on the</p> <p>5 type of study done in this type of paper?</p> <p>6 MS. PARFITT: I'm going to</p> <p>7 object as vague to that question.</p> <p>8 THE WITNESS: So I have</p> <p>9 expertise in in vitro toxicology methods,</p> <p>10 and I'm very familiar and have -- I</p> <p>11 understand the strengths and weaknesses</p> <p>12 of doing these kinds of studies.</p> <p>13 I have not -- I have done in</p> <p>14 vitro cell studies before myself in the</p> <p>15 lab. I have not -- obviously I did not</p> <p>16 do this study, and I think that this</p> <p>17 would be a study that would be best maybe</p> <p>18 discussed, however, with the author, who</p> <p>19 is in the litigation. Dr. Godleski could</p> <p>20 talk to you about it.</p> <p>21 I am familiar, though, and</p> <p>22 these are the kinds of studies I rely on</p> <p>23 for the evidence in the case.</p> <p>24 BY MR. HEGARTY:</p>	<p>1 Q. Are you aware of any articles that</p> <p>2 say that changes in expression of macrophages is</p> <p>3 pertinent to cancer development?</p> <p>4 A. I don't think I'll find that</p> <p>5 sentence. I think I'll find what's right, which</p> <p>6 is what here, which is on mechanistic data, the</p> <p>7 role of the scientist is to look for cellular</p> <p>8 changes that would be relevant to how we know</p> <p>9 cancer can develop.</p> <p>10 And so I don't think I would say it</p> <p>11 the way you asked it. I would say it the way that</p> <p>12 the authors say it. That there are macrophage</p> <p>13 genes that are relevant and pertinent to looking</p> <p>14 at mechanisms of cancer development.</p> <p>15 Q. How does the dose of talc exposure</p> <p>16 to the cells in this study compare to what the</p> <p>17 exposure would be to the ovaries in women using</p> <p>18 talc, in your opinion?</p> <p>19 A. I haven't formed an opinion on -- on</p> <p>20 the comparison of that dose, but I believe I've</p> <p>21 talked about these issues before in deposition, if</p> <p>22 you want me to rehash that but --</p> <p>23 Q. No. I'm referring --</p> <p>24 MS. PARFITT: Yeah.</p>
<p>1 Q. Are you aware of any studies showing</p> <p>2 the same findings reported in Mandarino in women</p> <p>3 using talc?</p> <p>4 A. So what do you mean by -- are you</p> <p>5 asking me do they see -- we certainly see</p> <p>6 inflammatory changes would be consistent with</p> <p>7 reactive oxygen species, but I haven't seen</p> <p>8 somebody take -- you're asking me if somebody take</p> <p>9 human cells out and done the same thing in a human</p> <p>10 cell?</p> <p>11 Q. Correct.</p> <p>12 A. I don't know. I'd have to look. I</p> <p>13 know that there are human ovarian cell lines that</p> <p>14 have been studied, and I believe Dr. Fletcher does</p> <p>15 some of that. I need to look and see, but I</p> <p>16 think.</p> <p>17 Q. This quote --</p> <p>18 A. Yes.</p> <p>19 Q. -- from the Mandarino paper refers</p> <p>20 to reactive oxygen species and changes in</p> <p>21 expression of macrophage pertinent to cancer</p> <p>22 development.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p>	<p>1 BY MR. HEGARTY:</p> <p>2 Q. -- specifically to this paper and</p> <p>3 the doses they used.</p> <p>4 A. I haven't done that analysis. To</p> <p>5 me, this is a mechanistic study. It provides</p> <p>6 important mechanistic information.</p> <p>7 Q. Can you cite to me any studies</p> <p>8 showing a link between changes of gene expression</p> <p>9 as referenced in this article to ovarian cancer</p> <p>10 risk?</p> <p>11 A. I don't think anybody has done that</p> <p>12 kind of work that I'm aware of, other than looking</p> <p>13 at genetic changes that are predispositions for</p> <p>14 cancer, but that's different than what they're</p> <p>15 doing here. They're looking here at changes after</p> <p>16 exposure.</p> <p>17 Q. Are you aware of any study that</p> <p>18 looks at any state of immunosuppression, whether</p> <p>19 associated with immunosuppression drugs after</p> <p>20 transplant or immunocompromised individuals, that</p> <p>21 have been shown to increase the risk of ovarian</p> <p>22 cancer?</p> <p>23 In other words, are you aware of any</p> <p>24 study showing that in immunocompromised state,</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 262	Page 264
<p>1 women are at increased risk of developing ovarian 2 cancer?</p> <p>3 MS. PARFITT: Objection.</p> <p>4 THE WITNESS: Well, I don't 5 think that's what this paper is talking 6 about. It's talking about 7 immunosurveillance, which is different 8 than immunocompromised. So are you 9 asking me about immunosurveillance or --</p> <p>10 BY MR. HEGARTY:</p> <p>11 Q. Well, let me ask that. Let me go 12 back and ask that.</p> <p>13 Do you see immunosurveillance 14 different than immunocompromised?</p> <p>15 A. It can be, yes.</p> <p>16 Q. How are they different, in your 17 opinion?</p> <p>18 A. So to me, immunocompromised is a 19 specific clinical diagnosis in an individual, 20 whether or not they're looking across -- 21 holistically across the immune system.</p> <p>22 Immunosurveillance is a mechanism 23 that operates in the human body in order to 24 protect you from things, such as exposure to</p>	<p>1 the cells off. 2 But are you asking me something 3 else? Are you asking me whether somebody has done 4 quantitative measuring or --</p> <p>5 Q. Correct. Quantitative measuring.</p> <p>6 A. I don't know. I haven't looked for 7 that.</p> <p>8 Q. Are you aware of any studies showing 9 that talc has an effect on monocytes?</p> <p>10 A. I don't believe anybody that I 11 recognize in the literature I've looked at looks 12 just at monocytes. They're focusing on 13 macrophages for a reason.</p> <p>14 Q. The reported effect by Maldinado was 15 localized to the cells in which talc came into 16 contact with, correct?</p> <p>17 A. In Mandarino or --</p> <p>18 Q. I'm sorry. Mandarino.</p> <p>19 A. Yes. Yes, that's correct.</p> <p>20 Q. And does not purport to show what a 21 system-wide effect would be across the body to a 22 particular portion of tissue exposed to talc, 23 correct?</p> <p>24 MS. PARFITT: Objection.</p>
Page 263	Page 265
<p>1 exogenous substances, but also to keep your system 2 working properly just generally as you age.</p> <p>3 Q. Okay. The paper, the Mandarino 4 paper, does talk about macrophages, correct?</p> <p>5 A. It does.</p> <p>6 Q. Macrophages are created by 7 monocytes; is that right?</p> <p>8 A. They derive from those, yes.</p> <p>9 Q. Do you know how many monocytes a 10 body creates every day?</p> <p>11 A. Oh, I could find that in my 12 physiology text, but I do not know off the top of 13 my head.</p> <p>14 Q. Do you know how many macrophages are 15 in the body at any given time?</p> <p>16 A. Same answer. I certainly have that 17 in my materials, but I can't recite that for you.</p> <p>18 Q. Does this study or are you aware of 19 any study that shows that talcum powder exposure 20 reduces the number of macrophages in the body?</p> <p>21 A. Yes, there are studies that show 22 that they undergo apoptosis, or cellular death, in 23 the presence of talc. So that means you're 24 reducing the numbers, obviously, if you're killing</p>	<p>1 Form. 2 THE WITNESS: I would say 3 that that is not at all the design of 4 this study.</p> <p>5 This study is an in vitro 6 study looking at isolated events that can 7 build towards understanding the 8 pathogenesis of cancer.</p> <p>9 BY MR. HEGARTY:</p> <p>10 Q. Macrophages when they respond to an 11 insult -- I'll put it that way -- come from all 12 parts of the body to that insult, correct?</p> <p>13 MS. PARFITT: Objection.</p> <p>14 Form.</p> <p>15 THE WITNESS: What do you 16 mean by "come from all parts of the 17 body"? That doesn't really make sense to 18 me.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. Well, let me ask it a different way. 21 If you have an inflammation or let's 22 say -- let me start over. 23 If you have an infection that 24 macrophages respond to, do you agree that the</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 266	Page 268
<p>1 macrophage -- that the response is just not 2 limited to the local tissue where that infection 3 is -- is located, correct? 4 A. It can be if it's -- if you catch 5 the infection early. That's the whole point. 6 So -- but I would agree. What I would say to you 7 is it can travel beyond the local infection. When 8 it becomes a systemic issue, yes, that can happen. 9 But if the infection stays in a small site, it's 10 the local tissue response that hopefully can -- 11 can take care of the problem. 12 Q. You agree, though, that 13 macrophages -- the body can call upon macrophages 14 across other parts of the body to come to a 15 localized area where they are needed, correct? 16 MS. PARFITT: Objection. 17 Form. 18 THE WITNESS: I don't think 19 the body does it quite that way. I think 20 if you wanted -- if you wanted to make it 21 simplistic, I would say to you that your 22 immune system overall is there to respond 23 to insults. 24 And if insults become</p>	<p>1 of my research. But yes, I have done those things 2 before. 3 MR. HEGARTY: And I'll mark as 4 Exhibit 26 the Fletcher paper that you've 5 added a reference to in that paragraph. 6 MS. PARFITT: Thank you. 7 (Document marked for 8 identification as Plunkett Exhibit 26.) 9 BY MR. HEGARTY: 10 Q. And the study -- the cells that he 11 used in the study are immortalized cells, correct? 12 A. Yes, that's correct. That's 13 typically what you are required to do with these 14 kinds of assays. 15 Q. So they would not be considered 16 normal cells, right? 17 MS. PARFITT: Objection. 18 Form. 19 THE WITNESS: Okay. So I 20 would point you -- I would point you to 21 others in this litigation to go into the 22 details, but I can answer that question. 23 BY MR. HEGARTY: 24 Q. Okay.</p>
Page 267	Page 269
<p>1 significant and move beyond a very 2 localized area of the body that, yes, 3 other -- the blood system, for example, 4 or even the lymph system can carry and 5 take away and contribute to -- to a more 6 systemic response. 7 But I don't think the way 8 you're asking it is quite right. 9 BY MR. HEGARTY: 10 Q. If you would turn next to paragraph 11 65. 12 A. Yes. 13 Q. Towards the end of that paragraph, 14 you add some references to the 2019 Fletcher 15 paper, correct? 16 A. That's correct. 17 Q. Have you ever done the type of 18 studies that are reported in the Fletcher paper 19 yourself? 20 A. I have done -- I have -- I have in 21 the laboratory when I was in academics worked in 22 the lab in with studies that had been looking at 23 redox enzymes in cells. Yes, I have done that, 24 but I -- this was not something that was the focus</p>	<p>1 A. And that is the issue of the fact 2 that just because a cell is immortalized doesn't 3 mean it is, quote-unquote, abnormal. It just 4 means that it's a process used in order to be able 5 to make -- put those cells in a state where they 6 will reproduce in culture. 7 So the idea is you have to 8 immortalize the cells in order to keep the cell 9 culture going and be able to do the experiment. 10 It is not -- it is not that the cell 11 is some kind of an abnormal cell that you don't 12 expect it to respond like normal cells would. 13 That's where I disagree with you. 14 I think that you do this as a tool, 15 but it's -- but it does not mean that the findings 16 are not relevant to normal physiology. 17 Q. Do you agree that to make the cells 18 immortalized, they are injected with a type of 19 virus? 20 A. This one is, yes. There's other 21 ways to do that, too. You can actually use 22 different kinds of external cell mediators to do 23 it as well. 24 Q. So is it your opinion that the</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 270	Page 272
<p>1 process of making the cells that Dr. Saed used in 2 his study immortalized did not make them abnormal 3 or precancerous?</p> <p>4 MS. PARFITT: Objection. 5 Form. 6 THE WITNESS: I don't think I 7 formed that opinion and I don't believe 8 that -- I would say you should ask him 9 about his studies. I believe he's 10 involved in the -- in the MDL. 11 I would just say to you what I 12 already did, which is, as a toxicologist, 13 this data is relevant to my assessment 14 for the reasons that, hopefully, you 15 understand based on the testimony I've 16 given about this kind of data in the 17 past.</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. And with regard to what Fletcher 20 reported as it relates to key redox enzymes, key 21 redox enzymes are not the same thing as reactive 22 oxygen species, correct?</p> <p>23 A. No, they're not. The redox enzyme 24 forms the ROS.</p>	<p>1 A. I don't think that's on my list of 2 things I've seen. I don't know. If it's on my 3 list, I have. 4 Q. Would you look at your list to see 5 if you read Dr. Saed's deposition testimony? 6 A. Do you remember what the number of 7 that one is? I'm sorry. 8 Q. It's at the top. 9 A. Was that -- 10 Q. Well, it would be in your report. 11 A. Oh, it is Exhibit C to my report. 12 Q. Exhibit C in your report? 13 A. Yes. So let me look real quick. Sorry. You have a better memory than I do today. (Reviews document.) I don't see it in my list, no. Q. And you don't have a memory here today of seeing it? A. No, I do not. Q. If you turn next to paragraph 75 in your report, and tell me when you're there. A. Mr. Hegarty, I just realized, I looked at the wrong appendix here. Q. Okay.</p>
<p>1 Q. And ROS are such things superoxide, 2 hydrogen peroxide, hydroxyl radicals, hydroxyl 3 ions, nitric oxide, correct? 4 A. Yes, that's correct. 5 Q. And with regard to reactive oxygen 6 species, the human body generates those every day, 7 right?</p> <p>8 MS. PARFITT: Objection. 9 Form. 10 THE WITNESS: They can 11 generate those every day, but it's very 12 important to understand that they are 13 linked to inflammatory mechanisms. So it 14 can lead to an abnormal physiology 15 depending on what happens with the 16 process.</p> <p>17 BY MR. HEGARTY:</p> <p>18 Q. Just exercising, though, increases 19 reactive oxygen species in the body, correct? 20 A. Yes, and when you stop, it doesn't 21 occur anymore. The difference is talc is there 22 all the time. 23 Q. Have you read Dr. Saed's testimony 24 with regard to his study?</p>	<p>1 A. I actually looked at Appendix C. 2 You want me to look at this? I realized that's my 3 original report. 4 Q. Yes. Please look at your report -- 5 A. Okay. 6 Q. -- where you would list the 7 deposition testimony you have read. 8 A. Yeah. I'm sorry. 9 Q. I want to make sure that you are 10 accurate about it. 11 A. I just realized that. 12 No, I don't see it. 13 Q. Before we look at paragraph 75, 14 prior in the deposition you were looking for a 15 reference in your report to the 2021 risk 16 assessment that you thought might pertain to 17 fibrous talc. 18 Were you able to find that 19 reference? 20 A. So the reference that I remembered 21 was dealing to -- was dealing with what they 22 stated that they -- what they said they assumed, 23 and they assumed that it was talc that did not 24 have asbestos fibers in their -- in their</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

Page 274	Page 276
<p>1 assessment. So that means that they would not 2 have assumed it had fibrous talc in their risk 3 assessment, which is important because that means 4 it's an assessment, like IARC, in terms of -- of 5 focusing on the toxicity of talc, not just one 6 constituent.</p> <p>7 Q. Would you turn again to paragraph 8 75.</p> <p>9 A. I'm there.</p> <p>10 Q. You added in that paragraph a 11 reference to the Langseth paper 2008. 12 Do you see that?</p> <p>13 A. Yeah. This is the same list that I 14 had before. Remember I told you -- I thought we 15 talked about this. I told you Wu was added for 16 that reason.</p> <p>17 Q. Why did you add Langseth to this 18 part of your report?</p> <p>19 A. Because it's one that they didn't 20 have access to, that's all, and I'm telling you 21 that they didn't have access to it.</p> <p>22 MR. HEGARTY: And with regard 23 to the Langseth paper, I'm going to mark 24 as Exhibit 27.</p>	<p>1 under that heading that says -- 2 MS. PARFITT: I'm just going 3 to object to the extent this article was 4 examined. It was one that existed well 5 before her 2018 deposition. So... 6 MR. HEGARTY: Do you believe 7 that it was in her report before the 2006 8 -- 2021 amended report? 9 MS. PARFITT: I thought it was 10 in her 2018 report. I would almost -- 11 MR. HEGARTY: Can we go off 12 the record for just a second? 13 (Recess: 2:00 p.m. - 14 2:02 p.m.) 15 MR. HEGARTY: We can go back 16 on the record. 17 I believe that's all that I 18 have given our time limitations and 19 obviously subject to the couple of areas 20 that we perhaps might want to follow up 21 on, whether they were covered or not. 22 MS. PARFITT: That concludes 23 in Plaintiff's mind the entire 24 deposition, and thank you very much, Dr.</p>
Page 275	Page 277
<p>1 MS. PARFITT: Mark, I don't 2 want to interrupt you, but I think we're 3 about at four hours.</p> <p>4 MR. HEGARTY: Yeah, I have -- 5 I have like two minutes, three minutes 6 left. So I agree we're almost.</p> <p>7 MS. PARFITT: Okay.</p> <p>8 MR. HEGARTY: I'm going to 9 mark as Exhibit 27 the Langseth paper.</p> <p>10 MS. PARFITT: All right. (Document marked for identification as Plunkett Exhibit 27.)</p> <p>11 BY MR. HEGARTY:</p> <p>12 Q. And if you turn over to the second 13 page under Proposal: To Research Community? Do 14 you see that section?</p> <p>15 A. Yes, I have it.</p> <p>16 Q. And before we get there, are you 17 aware that three of these authors were part of the 18 epidemiology working group for IARC --</p> <p>19 A. Yes.</p> <p>20 Q. -- 2006 review?</p> <p>21 A. Yes. It says at the back here.</p> <p>22 Q. Do you agree with the statement</p>	<p>1 Plunkett. I have no further questions. 2 Thank you, Mark. 3 MR. HEGARTY: Thank you. 4 5 (Time noted: 2:02 p.m.) 6 7 * * * 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>

Laura M. Plunkett, Ph.D., D.A.B.T.

<p style="text-align: center;">Page 278</p> <p>1 ERRATA SHEET</p> <p>2</p> <p>3 Page No. _____ Line No. _____ Change to: _____</p> <p>4 _____</p> <p>5 Page No. _____ Line No. _____ Change to: _____</p> <p>6 _____</p> <p>7 Page No. _____ Line No. _____ Change to: _____</p> <p>8 _____</p> <p>9 Page No. _____ Line No. _____ Change to: _____</p> <p>10 _____</p> <p>11 Page No. _____ Line No. _____ Change to: _____</p> <p>12 _____</p> <p>13 Page No. _____ Line No. _____ Change to: _____</p> <p>14 _____</p> <p>15 Page No. _____ Line No. _____ Change to: _____</p> <p>16 _____</p> <p>17 Page No. _____ Line No. _____ Change to: _____</p> <p>18 _____</p> <p>19 Page No. _____ Line No. _____ Change to: _____</p> <p>20 _____</p> <p>21 Page No. _____ Line No. _____ Change to: _____</p> <p>22 _____</p> <p>23 Page No. _____ Line No. _____ Change to: _____</p> <p>24 _____</p>	<p style="text-align: center;">Page 280</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 DISTRICT OF COLUMBIA)</p> <p>3 I, DENISE DOBNER VICKERY, CRR/RMR and</p> <p>4 Notary Public, hereby certify the witness was by</p> <p>5 me first duly sworn to testify to the truth; that</p> <p>6 the said deposition was recorded stenographically</p> <p>7 by me and thereafter reduced to printing under my</p> <p>8 direction; and that said deposition is a true</p> <p>9 record of the testimony given by said witness.</p> <p>10 I certify the inspection, reading and</p> <p>11 signing of said deposition were NOT waived by</p> <p>12 counsel for the respective parties and by the</p> <p>13 witness; and that I am not a relative or employee</p> <p>14 of any of the parties, or a relative or employee</p> <p>15 of either counsel, and I am in no way interested</p> <p>16 directly or indirectly in this action.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 Denise Dobner Vickery, CRR/RMR</p> <p>22 Notary Public in and for the</p> <p>23 District of Columbia</p> <p>24 My Commission expires: February 28, 2023</p>
<p style="text-align: center;">Page 279</p> <p>1 DECLARATION UNDER PENALTY OF PERJURY</p> <p>2</p> <p>3</p> <p>4 I declare under penalty of</p> <p>5 perjury that I have read the entire transcript of</p> <p>6 my Deposition taken in the captioned matter</p> <p>7 or the same has been read to me, and</p> <p>8 the same is true and accurate, save and</p> <p>9 except for changes and/or corrections, if</p> <p>10 any, as indicated by me on the DEPOSITION</p> <p>11 ERRATA SHEET hereof, with the understanding</p> <p>12 that I offer these changes as if still under</p> <p>13 oath.</p> <p>14</p> <p>15 Signed on the _____ day of</p> <p>16 _____, 2021.</p> <p>17</p> <p>18</p> <p>19 LAURA M. PLUNKETT, PHD, DABT</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	

A	118:13 186:17 189:23 220:19 222:1,1 273:10 279:8	181:10,12,17 216:13 225:11,14 245:22 246:4 268:5 274:10,15	109:17 125:5 advertisement 67:6 242:17 advertisements 80:5 81:8,16	agreed 52:23 187:5 agreement 38:19 39:2
a.m	1:19 2:8 105:5,6 148:4,5 178:18			ahead 84:1 104:24 147:8
abbreviated	51:10			178:14 179:19
ability	117:21 119:4 138:3			185:6 188:13
able				213:23 232:10
18:20 21:18 22:3 22:15,23 23:8 34:12,21,22 35:7 88:22 96:24 110:16 116:10 118:1 183:11 190:6 191:1 269:4 269:9 273:18	122:12 228:10	88:21 132:6 136:2		239:19
abnormal	269:3,11 270:2 271:14	157:11 160:1 173:6 230:24 231:9 234:3 280:16	140:11 141:12 142:5 144:10,19 150:10 160:14 220:23 221:12	air 132:1 133:24
absent	219:15			al 1:11,14 3:19 7:15
absolutely	22:2 82:1 116:20 135:9 187:22 200:8 209:2 235:19,20	161:18 171:17 172:14 173:21 174:2 217:2,12	6:14 62:5 73:1 87:1 87:5 93:1,5,7,8 96:8,14 100:9,11	8:16,20,24 9:5
abstract	88:17,22	active 24:10 39:15 47:23	101:2 115:17 131:6 138:11,13	10:22
abstracts	51:1,4	activities 34:2	160:16 214:23 216:17,21 230:14	Alert 69:9
abundance	113:8	actual 202:3,4	246:2	Alex 90:18,20
academics	267:21	ad 81:14	additions 141:9 143:4 144:17 145:3 160:7	Alexander 246:4
access	26:5 93:18 95:3,6 95:11 107:2 213:21 248:21 274:20,21	add 92:2 94:18 120:18 130:11 136:4	additive 157:7	Allen 3:15 26:18 31:21
accumulates	132:17 134:17,22	added 94:24 97:18 98:20 99:19 120:7 121:6	address 11:11,16,19,24 106:14 117:22	31:24
accumulation	254:22	125:13 128:4,18 129:15 130:7,10 130:21 131:6	addressed 134:21 144:15 145:16 146:20	allowed 54:14 220:13
accurate	135:23 136:13	135:23 136:13 141:9 143:21 150:7,16 153:3,4	133:2	amended 5:22 7:20 8:3,8
		153:10 155:1,13	addressing 146:20	27:10 78:5 84:14
			adds 189:6	84:21 85:17 87:11
			admit 198:21 200:6,7	87:16 88:21 89:11
			242:8	91:20 92:19,22
			advance 72:3	94:1 96:4 97:17
			advantage 180:3	98:20 99:2 102:1
			adverse 153:10 155:1,13	102:16,24 103:18
				104:4,15 105:11
				106:6,13 107:13
				108:9 109:7,9
				124:15 130:4
				137:6 177:6 195:6
				195:12 204:21
				223:19 243:11
				244:14 246:8
				249:22 276:8
				American

37:14 39:20 amount 20:12 21:12,22 22:3 61:11 158:7 amounts 159:6 amphiboles 141:1 analogous 168:24 analysis 105:12,17 106:7,14 106:22 117:11 137:12,15,18 138:8,18,22 139:9 158:12 164:1,7,24 180:1 181:2,4 183:17 184:9 186:23 188:7 190:16 196:20 202:8,10 203:19 205:15 206:24 207:23 208:5 209:17 261:4 Analytic 8:12 analyzed 208:14 247:17 and/or 279:9 Anderson 69:8 animal 116:17 229:18 announcement 76:4 Announces 7:17 annual 74:3 answer 11:4 15:23 16:6 22:7 31:4 34:10 58:8 79:23 80:8,9 83:21 111:9 119:4 125:14,15 137:5	142:14 156:22 157:2 164:8,22 187:12,13 188:11 188:16 192:3,3,10 192:13 193:8,9 194:7 198:6 199:4 201:13 206:9 211:16 229:6 247:1 249:18 251:4 254:15 263:16 268:22 answered 17:17 68:8,14 119:9 answers 119:9 anticipate 17:20 anticipated 14:8 244:13 antiperspirant 108:17 anybody 74:24 261:11 264:10 anymore 271:21 apologize 27:4 28:15,24 29:2 30:18 65:12 157:22 162:1 204:5 232:3 246:16 apoptosis 263:22 appear 61:23 84:20 130:22 132:1 134:1 APPEARANCES 3:1 4:1 appeared 58:16 153:12 157:18 177:20	appears 130:18 131:7 appendices 85:2,3,12,19 102:22 appendix 85:13 89:22 94:24 97:18 103:9 272:23 273:1 applicable 149:6 applied 91:16 150:9,18 247:17 248:4,11 applies 92:13 106:11 128:1 128:3,9 147:23 148:13 apply 144:1 149:8 173:1 187:24 188:1 227:22 applying 150:22 approach 138:20,21 appropriate 205:6 217:22 220:5 approximately 36:10 April 6:22 28:8 90:14 160:4 166:17 archives 61:15 area 7:8 13:15 14:23 15:8,13 16:5 19:5 91:10 119:17 135:3,15 139:16 183:21 184:12 185:14 187:2 189:16 196:18 198:19 199:15 203:21 255:8 266:15 267:2	areas 14:23 47:22 91:4 116:1,11 276:19 Argon 47:5 49:5 appendix 81:10 arguing 233:13 arguments 81:6 arrangement 38:7 40:10 arrangements 39:12 article 56:5,8 88:19,23 91:14 112:8,16 125:7 174:5,11 183:24 194:19 195:14 197:5 201:10 210:20 232:6 247:16 249:21 261:9 276:3 articles 91:17,18,19,22 92:1,15 112:16 163:6,8,16 174:14 177:21 260:1 asbestiform 130:23 131:8 132:4 132:23 134:5,6 141:15,22 144:2 144:20 145:9,11 146:3,11 152:8 273:24 asbestos 55:3,5 56:6 73:10 74:7 75:1,1,10,17 75:24 76:2,7,14 93:7 96:6 140:15 140:20,21 141:2,4 143:1,23 144:1 146:15,17 149:18 150:14,23 151:5,7	151:8,13,19,22 152:9,16 153:12 162:6 234:10,23 250:18 asbestos-free 149:20 222:8,10 Ashcraft 2:13 3:4 31:22 aside 62:1 139:22 243:9 252:7 asked 25:17 30:4,6 31:1,3 31:12 52:5 53:15 68:8,14 71:7 article 76:17 87:10,12 93:4,5,21,22 94:3 100:17,21 110:17 111:5 120:21 130:18 139:6 143:8 144:23 148:9 164:15 180:21,21 186:4 187:4 211:9,10 214:1 223:24 238:24 260:11 asking 17:20 23:12,13 27:17 58:11 71:9 92:6 98:16 124:18 131:9,19 155:19 155:23 185:2,3,9 185:10 191:8,14 191:17 195:1 197:12,14,17 200:7 201:17,20 208:10 209:19 227:17 233:21 236:14 248:24 256:18 259:5,8 262:9 264:2,3 267:8 aspect 34:4 asphyxiation 161:4
---	---	--	--	---

assays	assisted	authorities	79:20 80:4 106:15	102:20 105:17
268:14	17:14,19 68:18	123:1,20 124:2	113:20 137:13,22	107:2 121:14
assertions	assisting	144:14 145:16,22	157:20,24 158:3	128:18 129:14
118:16	41:9	163:12 166:8,18	159:7 192:20	130:17 139:10,12
assess	associated	176:23 255:15	228:3 231:12,16	149:9,10 151:1,14
91:13 177:1	144:15 145:17	authority	232:1 233:1	166:1 181:4
assessing	261:19	42:14 43:10 77:24	234:13 236:2	191:15 195:23
92:13	association	127:18,22 150:22	253:11,11	196:7 199:19
assessment	7:13 8:22 184:11	160:9 162:6	back	205:12,17 210:1
6:20 50:13 53:14	185:13 186:24	164:12 166:24	12:21 13:8,14	214:2 220:4,6
53:16,19 77:10	187:19 199:14	167:5,16 226:6	14:19 22:2 23:5	234:2,14,19 237:2
85:20,24 91:21	200:20,22	authors	24:11 48:8,8 57:6	244:13 270:15
105:17 114:7	assume	88:16 183:1 199:19	61:5,7 65:11 67:9	basic
115:6,9,10 129:5	44:19	200:10 201:1	71:12 73:15,22	122:13 170:8
129:22 130:1	assumed	202:4 203:14	74:14 87:7 97:4	180:24
146:8,14,15,19	198:19 273:22,23	209:11 249:14,14	98:3 105:7 109:1	basis
147:11,22,23	274:2	250:6 260:12	111:10 113:5	8:21 136:19
148:11 149:5,8	attacks	275:19	122:10,11 127:11	Beasley
155:10,15 156:7	51:23	authors'	129:24 134:7	3:15 26:18 31:21
157:1,3 158:6	attempt	205:6	136:8 139:18	31:23
159:5 160:2 162:4	193:9	available	148:6 149:23	Beattie
162:18,21 163:20	attempted	8:14 41:14 59:4	159:23 168:3	3:16 64:4
164:12 166:10,17	102:17 142:3	68:23 88:17	169:12 176:6	becoming
169:17 171:11,11	186:16	115:20 139:12	178:20 180:17	192:21
172:19 174:6	attended	165:5,8 181:15	194:21 206:17	beginning
175:14,18,20	40:23	228:8	237:24 242:4	120:7 130:7 140:5
177:3,11,18,19	attorney	aware	244:23 245:4,18	140:6 196:13
178:1,4 207:12,20	34:19 38:17 64:17	26:23 40:22 41:14	253:16 262:12	216:23
209:4 213:2	66:21	82:15 83:9,14	275:23 276:15	behalf
214:15 235:5	attorneys	101:20 114:5	Background	39:19 46:10
253:19 270:13	28:14 58:11,23	118:18 119:16	7:4	believe
273:16 274:1,3,4	59:8,16,17 63:4	158:13 164:11	BACON	16:4 23:3 25:16
assessments	63:14,20,21 82:17	165:2 249:17	4:5	31:22 33:14 37:18
115:7 157:10	93:23 94:11 95:5	250:4,6 252:9	Bailey	38:1 43:2 44:11
167:24 174:16	95:15	259:1 260:1	217:17	47:2 54:23 55:1,4
assessors	August	261:12,17,23	ball	55:15,24 58:21
213:7	1:19 2:7 5:18 6:8	263:18 264:8	219:24	59:18 61:2 62:6
assets	6:15 8:6 86:13	275:19	ban	64:3 65:21 66:19
19:23,24 20:8	141:10 239:12,23	awareness	172:7,8	69:22 71:13,20
assign	240:6,6 241:4,5	225:18	banning	72:2 73:2 77:15
91:20	241:23 242:3,13	<hr/>	173:24	86:21 89:15 92:3
assigning	Australia	B	based	92:8 94:23 97:16
92:14	42:22	B6C3F1	13:6 14:4 19:24	99:11,13 100:19
assist	author	6:18	20:14 21:11 30:8	101:9,12 102:4,4
17:21 68:5,11	205:12 212:21	baby	35:5 49:6 69:18	103:7 106:4
72:14	248:17 258:18	7:18 8:14 70:1 76:2	73:2 86:24 96:15	117:10 118:9,13

118:15 119:20	183:6	173:2 178:6	132:1 133:24	148:13 160:2
135:5 136:7,14,16	bill	182:14 183:20	bullet	161:16,24 162:3,9
136:23,24 138:15	30:10 66:3 245:2,3	192:7 193:4	bundles	162:15,17 167:2,2
139:5 142:2	billed	195:10 262:23		167:6,20 169:10
143:16 148:21	29:22 66:5	263:10,15,20		170:19,21 171:7
149:2,17,19	billing	264:21 265:12,17	bursal	171:22 172:12,14
156:17 160:22	29:24	266:13,14,19	255:12	172:19 173:11
161:6,10 168:4	bio	267:2 271:6,19	business	174:7,15 175:6,14
171:1,9 187:17	61:3 104:20	Boorman	11:10 12:3,6,11,12	175:21 207:10,18
190:23 191:3	bioactivity	6:19 112:7,16	12:17 17:2 18:8	209:8 234:14
194:10,13 195:17	35:6	bother	45:7	235:4 253:18
198:4 205:5 210:3	biochemistry	85:13	Buz'Zard	Canada's
215:14 218:15,21	13:19	bottle	229:15	166:9,16 167:19
220:5 222:9	biologic	70:2 158:2	C	171:6
223:20 228:18	198:4	bottom	45:23 144:6 257:15	Canadian
230:5 231:7 233:2	BioPolicy	Box	4:6 10:1 85:13	32:20 115:6 160:1
233:4 236:12,20	12:4,24 19:8 41:8	3:18	89:22 94:24 97:18	160:10 162:5
237:13 246:12	bioreactors	boy	272:11,12 273:1	166:8,18,24 167:9
250:20,20 251:24	15:11	212:22	cab	168:7,21 174:20
252:2 253:1	Biostrategies	Branscome	67:6	175:1 176:12,21
259:14 260:20	5:10,13 12:7,9	92:8 127:9 134:7	Cadigan	177:3
264:10 270:7,9	13:12,14	211:8	241:14 242:4	cancer
276:6,17	biotechnology	break	48:18	7:9,15 8:20,24 9:4
believes	13:24 14:3 15:15	29:16 104:20,24	calendar	52:6 54:24 56:6
148:12	16:15	178:15 237:20	48:18	82:19,20 87:23
bellwether	bit	bring	California	100:9,23 101:3
78:10 79:6 81:24	123:17 181:8	10:24 20:20 21:3	16:21	105:13 107:8
benefit	block	52:19	call	120:15 121:19
21:4,8 214:1	154:3	broad	14:21 26:12,14	125:1 137:19
benefits	blood	26:9 88:13 117:20	28:11 47:23 59:1	138:9,20 143:23
21:6	267:3	119:3 164:2 208:2	60:1 69:3,3 141:2	144:1,15 145:16
benign	Blount	210:23 236:7	141:2 146:21	150:15 153:18,20
254:22 255:18,22	69:8	broader	173:22 213:6	153:24,24 155:6
best	Blvd	26:7	219:15 251:6	155:11 156:24
157:1 188:15	4:7	brought	266:13	157:8,9,15 158:8
258:17	BMI	11:2,3 13:22 20:6	called	159:8,14 170:22
better	80:14	84:9 85:23 215:14	10:4 14:11 42:22	171:24 180:20
46:2 180:15 272:14	Board	239:19	53:17 59:8,21	182:15 183:22
beyond	7:7	build	73:6 146:3,3	184:13 185:14
230:14 266:7 267:1	board-certified	265:7	Canada	187:2,20 189:10
Bibliography	13:17	building	6:22,22 7:19 31:10	189:17 192:22
71:2	bodies	11:16 124:19 154:3	31:13,18 32:12	199:15 203:22
big	146:2	built	77:6,9,18,21	210:3 248:20
49:12 151:15	body	136:21	85:20,24 115:9	254:3,5,7 255:17
180:18	43:11 59:14 68:21	bulk	146:6,7,14 147:11	256:3,4 259:21
biggest	155:22 172:19		147:22 148:10,11	260:3,9,14 261:9

261:14,22 262:2 265:8 cancers 105:18 Cannabidiol 51:10 capable 120:18 121:11,15 128:20 129:18 158:8 159:7 captioned 279:6 carcinogen 144:14 149:16 152:9 153:13,17 156:6 Carcinogenesis 70:6 carcinogenic 156:8 carcinogenicity 69:11 149:18 152:16 carcinogens 7:3 146:4 154:17 Carcinoma 8:16 card 65:23 care 172:23 266:11 careful 40:4 Carmen 7:11 195:18 carry 151:4 217:18 267:4 carrying 151:10 case 10:21 23:6 26:7 29:20,23 31:2,10 31:17,18 32:12,21 45:24 46:8,14,23 47:1,1,3 78:4,6 82:9 92:5 93:21	98:5 105:14 106:2 107:14 114:4 118:21 206:10 210:8,10,12 225:16 226:23 228:2,15 229:24 238:4 243:13 244:16,21 256:9 258:23 case-specific 79:16,24 80:18 81:2 105:22 206:2 206:4,6 cases 17:23 28:5 29:11 29:12,17 30:5,6 30:24 31:3,10 46:11 47:12,20,22 48:9,19,23 49:6 78:4,10,14 79:6 79:12 82:1,18 100:18 105:14 112:5 113:5 130:14 188:2 203:2 205:22 210:2 245:3 cast 224:22 catch 266:4 categories 164:5 category 135:13 causal 210:5 causation 107:12,16 154:4 209:17 210:6,13 Causative 248:20 cause 1:13 138:3 152:16 152:17 153:18,20 209:21 210:3,17 caused	46:7 causes 157:12 causing 121:11,15 128:21 129:19 158:8 caution 40:3 113:9 caveat 103:5 129:3 CBD 51:9,10 cell 258:14 259:10,13 269:2,8,10,11,22 cell-based 15:12 cells 8:20 258:1,3 259:9 260:16 264:1,15 267:23 268:10,11 268:16 269:5,8,12 269:17 270:1 cellular 260:7 263:22 Center 14:4 Centre 213:1 certain 34:3 43:5 73:4 81:7 91:9 158:21 159:3 certainly 24:9 30:14 67:3 70:21 85:22 92:1 100:12,15 114:18 118:8 119:16 136:21 146:4,5 153:19 161:8 178:12 198:2 207:15 209:18 216:9 223:11 227:7,20 234:20 236:9,16 247:11 259:5 263:16 CERTIFICATE	280:1 Certified 1:24 2:21 certify 280:4,10 chance 119:12 238:12 6:21 12:10 17:1 19:3 63:2 278:3,5 278:7,9,11,13,15 278:17,19,21,23 changed 101:21 changes 171:18 259:6,20 260:2,8 261:8,13 261:15 279:9,12 charged 245:15 check 32:15 245:1,9 checking 34:18 chemical 38:4,10 126:16 136:11 166:13 chemicals 38:9 170:7 Chemistry 37:14 39:20 chemotherapy 254:11 chinchilla 229:13 255:9 choosing 223:20 choose 204:20 236:4 chosen 56:24 57:16 chronic 138:4 157:13 chronically 253:23 chronologically	88:8 CIR 115:13 CIRCUIT 1:8 citation 123:5 161:21,23 169:8 232:3 citations 161:12 170:20 cite 97:17 99:21,24 103:4 108:12 118:6 122:21,24 124:8 126:12 127:17,22 151:19 163:19 170:15 174:15 197:4 204:21 205:4 208:8 218:7 219:19 233:7 248:2 249:22 251:15,21 255:2 255:15 256:1 257:24 261:7 cited 91:20 99:7,9,10 109:8 119:8 124:17 140:23 163:6,21 164:13 165:16 166:19 205:4 247:10 253:21 254:20 cites 119:8 124:18 247:16 citing 100:6 158:15 214:22 city 1:8 4:8 54:16 67:10 67:10 clarify 30:2 130:17 classified 144:13
---	---	---	---	--

clear	58:2	committee	106:23	200:24 201:18,24
117:4 120:21	colleagues	52:17 56:12 57:4	compare	209:14,19
140:17 144:12	249:6	57:21	139:2 202:12	conclusions
189:14 226:1	color	56:17,23 57:18	260:16	114:18 116:19
230:8 234:8	242:17	communicated	comparing	117:2 166:19
clearly	Columbia	39:18 40:16 41:22	199:11	184:1,22 202:4
110:24 156:20	2:23 280:2,22	59:15 77:23	comparison	203:12 205:7,12
224:15 237:14	combination	communication	8:13 143:11 252:22	205:16 208:15
click	26:17	43:19 77:17 95:15	260:20	209:10
88:16	come	162:5	complete	conducted
client	12:19 18:2 20:6	communications	45:18 133:1 153:21	228:3 256:13
15:7 28:12,13,19	39:6 57:18 59:5	41:15 64:16 77:6	191:15 212:7	conference
36:23 37:7 165:24	93:13 100:14	Community	completed	26:12,13 77:9
216:7,10	109:1 111:10	275:15	132:22	confidential
clients	149:22 166:5,8,9	companies	complex	38:18 41:7,23 45:7
13:21 14:21,23	166:19 208:14	13:22 38:9 106:1	35:4 157:5 159:15	58:10 101:15
15:4,5,7,9 19:8	237:2 246:13	107:7 109:15	confirm	250:22
20:17,24 41:6,10	265:11,16 266:14	128:13 173:18	confirms	199:12
45:6 65:9 77:21	comes	218:24	conflict	75:3
128:11 166:5	38:16 163:13	companies'	confusion	75:3
167:13 176:11	202:14	106:18	130:19	Congressional
216:6 217:23	coming	company	124:12	conjunction
220:8 227:8,24	49:6 81:17 112:5	12:13,15,24 13:22	198:13	198:13
Climate	comment	14:10,17 17:5	connection	210:5
6:21	60:13 132:21	19:12,14,18 20:4	consider	165:10,15 167:8
clinical	158:17 175:24	20:7,9,12,17,21	178:13 203:24	241:8 268:15
262:19	192:2 193:11	21:5,6,14,19 22:4	considered	241:8 268:15
close	commenting	22:11,16,18,24	6:14 45:6 80:14	consistent
35:12	44:18	23:9,18 26:4	99:5,8,17 111:23	114:13,16 118:20
closed	comments	34:14,17 37:1	138:9,19 214:4	130:13 136:14,15
12:11	45:5 57:6 59:11	38:21 39:20 47:4	236:1,10,21	137:7,8 138:8,15
closer	62:18 77:2 175:18	49:6 66:8 87:8	concisely	138:23 141:6
21:24	186:2 193:14,14	92:22 94:2 95:2	169:5	142:18 143:16
co-culture	194:22 242:6	95:21 96:9 99:3,4	concludes	145:13 152:5
8:19	Commerce	101:11 103:23	276:22	177:18 178:3
coffee	3:17	104:3,13,14 107:3	conclusion	
63:13 64:15	commercialization	107:6 109:13,17	166:9 182:19	
cohort	51:9	110:24 115:18	183:20 184:7,18	
180:2 212:5	commercially	129:2,4 140:24	185:11,11 199:12	
cohorts	8:13	151:3,18 158:13		
184:10 186:23	Commission	171:8 226:2,16		
Coleman	43:12 280:24	230:17,19,23		
45:23	commissioner	231:8 232:24		
Colgate	127:21	234:6 237:11		
221:19	commissioner's	company's		
colleague	14:6			

188:21,23 200:21 203:14 211:13,18 216:17 259:6 constituent 137:22 140:19 159:16 274:6 constituents 101:21 136:11 137:24 138:24 157:6 231:19 consult 13:8 consultants 236:18 consulted 37:16,19 38:3 consulting 12:3,6 14:9 17:2 24:6 33:5,19,20 34:2 35:16,22 36:8,16 37:9,14 38:7,14,22 39:1 39:12 Consumer 4:4 7:16 106:2 consumer-facing 171:19 consumers 115:22 169:20 226:19 contact 72:20 73:9 264:16 contacted 13:2 contacting 61:17 contacts 96:8,8,10 13:21 contain 103:19 140:8 171:23 contained 102:16 containing 173:5 244:21 contains	102:24 107:23 context 126:14 197:6 continually 223:6 continue 39:14 72:22 112:4 199:6 203:17 continued 4:1 19:9 contract 38:20 contractor 17:5 contribute 138:1 267:5 controls 188:2 conversations 64:22 74:11 107:3 Cook 45:24 46:5 47:5 copies 24:19 84:8 copper 212:19 copy 24:22 49:21 61:6 62:14 84:3,13,23 85:5 89:18 112:7 119:21 147:14 154:13 179:10 240:20 243:14 Cordis 47:6 49:5,15 corn 96:8,8,10 corner 113:19 correct 11:17 12:8 16:23 25:8,15 44:21 50:5,6,18,22 53:5 58:17 63:7 68:24 75:18 76:7,14 77:1,4 82:3,5,6,7	82:10 86:10 92:9 92:15,16 96:1 102:23 103:16,21 104:5,11,18 122:20 128:21 129:19 131:2,4,11 139:21 145:11 146:16,18,21 148:23 156:14 157:21 159:9,13 161:13 162:7,8,24 163:9 165:3,8,11 172:20 173:2,7,17 173:19 179:2,3 183:22 194:23 195:8,10,12 197:18 200:3 202:10,19 206:15 207:1,12 209:23 214:12,13,18,19 215:11 216:13,14 221:9 222:20 231:17 245:23,24 249:6,11 250:18 250:21,24 253:19 253:20 254:5 255:19 257:9,11 257:12 258:2 259:11 263:4 264:5,16,19,23 265:12 266:3,15 267:15,16 268:11 268:12 270:22 271:3,4,19 corrected 181:4 corrections 279:9 correctly 71:21 184:16 187:14 189:21 197:9 199:18 204:3,8 213:17 correspondence 57:7 cosmetic	court 1:1,8 113:5 210:11 courtroom 237:2 cover 20:23,24 91:4 covered 55:21 116:12 135:4 135:16 276:21 covers 91:10 116:22,22 COVID 24:1 Covington 49:12 create 155:16 created 263:6 creates 263:10 creating 159:8 credentials 57:17 credibility 224:13,22 credible 224:20 credit 65:23 Critical 7:12 criticism 183:4 criticisms 183:7 186:2 196:2 cross-check 113:3 CRR/RMR 280:3,21 crystal 219:24 Crystalline 7:5 culture
---	--	--	---

269:6,9 current 12:2 50:16 103:1 103:11,19 currently 33:20 35:22 41:9 171:2 curriculum 5:19 50:17,21 cut 101:10 CV 50:4 125:15 126:8 CVs 49:22	databases 87:18 95:22 date 16:18 26:23 28:22 29:3,4,8 97:13 136:24 218:9 246:10 dated 5:24 6:5 8:6 26:22 28:7,21,24 51:5 86:13 112:17 141:16 dates 29:2 48:18 Davies 255:13 day 67:11 71:16 231:6 244:15 263:10 271:6,11 279:15 days 30:11 DC 1:20 2:16 3:8 64:12 deal 52:11 55:10,10 176:20 203:3 212:1 216:3 dealing 273:21,21 dealt 162:8 167:13 215:21 death 263:22 decades 39:5 183:11 231:3 236:11 December 7:6 13:1 17:3 54:19 55:13 56:4 77:18 78:1 101:1 106:22 160:3 245:17,17 decide 99:18 172:8 224:19 238:14 deciding	234:6 decision 233:10 234:13 deck 62:18 DECLARATION 279:1 declare 279:4 dedicated 244:21 defendant 48:23 106:7 Defendants 1:15 4:3 225:17 255:13 day 48:22,24 120:21 163:2 define 44:17 defined 143:12 defines 168:8,22 226:7 defining 142:6,7,11,12 143:5,6 definitely 31:23,23 180:9 definition 25:24 26:9 124:22 142:17 143:18 definitive 223:8 definitively 231:3 236:11 degraded 151:14 del 7:11 195:18 demographics 82:12 demonstrable 199:13 Denise 1:23 2:20 280:3,21	dependent 197:24 depending 125:3 252:16 271:15 depends 97:22 202:23 depo 211:7 deposition 1:17 2:10 5:8 6:1 7:1,20 8:1,3 9:1 10:17,21 11:1 17:2 23:6 24:19 25:18 26:6,12 28:6 45:15,19 46:7 47:15 54:18 55:12 56:3,21 57:24 77:5,18 78:1 89:16,23,24 90:18,19 91:5,6,7 92:7 96:13 100:8 100:17,18 101:1 102:8 103:13,17 104:5,16 106:21 107:6,18 110:13 111:8 112:11 127:4,12 134:8,13 134:21 139:19 144:24 214:1 222:19,23 223:3,6 223:21 224:4,14 224:22,24 225:3 225:10 232:23 233:6,8 239:17 244:14 260:21 272:5 273:7,14 276:5,24 279:6,10 280:6,8,11 depositions 48:3 49:17,18 89:24 90:14,24,24 91:2,4 93:5,15 215:15 238:3 252:14 derive	263:8 describe 14:14 57:12 133:23 162:4 217:12 223:22 described 139:8 189:3 describes 115:5 130:21 131:6 132:18,23 187:8 description 5:9 6:2 7:2 8:2 9:2 25:7 28:10 30:16 34:13,17,23 46:2 124:3,4 149:5,6 211:2 213:23 220:19 222:2 design 265:3 designated 47:20 designed 180:19 183:2,8 despite 225:17 detail 155:1 212:12 216:20 252:9 257:9 detailed 212:10 details 31:19 46:24 268:22 detecting 159:2 determine 94:17 97:15 129:22 155:20 determined 129:13 develop 255:8 260:9 developed 59:11 203:21 207:19 216:22 255:17
--	--	--	--	--

developing 170:23 254:23 262:1	265:20 269:22	discontinue 233:10 234:13 236:4	234:7	275:11
development 14:12,14 96:10 255:4 259:22 260:3,14	31:19 47:3 192:10	discontinued 197:5	distribution 19:21	documentation 57:5,8
devices 46:10 47:9,10	digging 165:19	discount 178:11	District 1:1,2 2:23 280:2,22	documents 25:23,24 26:1,2,4 27:15 28:11 57:20
diagnosed 256:4	dime 59:10	discovery 87:3 93:10	Division 1:15	87:1 88:1 89:4
diagnosis 256:3 262:19	dimension 65:1,5,17,20 66:15	discuss 63:16 122:11 171:16 177:23 178:4 179:2 181:24 231:24	Dobner 1:23 2:20 280:3,21	90:4,7,12 92:22 93:8,17,24 94:3 94:16 95:2,8,12
diameter 251:10	66:16	discussed 257:8	docket 57:12 163:4 245:16	95:16 96:6,7,9,14
dictate 152:13	direct 21:3 38:19,20 99:15 217:10	27:15 54:21 55:14 55:17 56:5 58:1,4 85:23 96:6 102:6 102:7,8 120:15	Doctor 71:3	96:17 97:6,8 98:1
died 46:12	directed 236:23	123:17 127:4 140:18 157:14 174:19,24 215:18 216:18 253:18	document 7:4 25:1 27:13,23 29:16 45:10 49:23 57:9 60:17 67:17 69:9 84:16 86:5 86:14,17 91:24 92:18 93:16,17	98:7,19 99:3,4,7,7 99:12,20,24
difference 13:19 14:16 125:21 193:4 200:2 271:21	direction 280:8	140:18 157:14 174:19,24 215:18 216:18 253:18 258:18	95:21 97:5 98:14 98:24 99:11 100:2 100:23 104:14 108:2,6,7,15,19	100:20 101:16 102:21 104:13
differences 127:6,13 199:9	directions 94:11	discusses 114:22 172:21	109:23 110:2,22 111:14,17,20,22	106:8 107:3,7,24
different 12:13 13:23 29:17 35:1,19,20 37:2 41:10 48:24 51:8	directly 19:12 168:24 175:5 215:21 216:4 239:16 280:16	discussing 127:19	112:12 113:19,22 113:24 114:6,8,11	109:6,11,14 111:1
53:14 54:1 67:1 74:11 85:9 87:11 92:11,12 96:17 120:24 123:18 126:21 130:21 131:20 132:7,10 132:18 133:8,9,14 133:15,16 138:9 138:17 152:6 154:5 164:4,5 170:6 171:20 172:23 193:16,17 193:17 194:12 200:23 202:3,16 208:22 211:15 218:4,9,17 261:14 262:7,14,16	disagree 114:17,23 115:4 116:13 117:1,9 135:3,15 187:21 189:2 198:7 199:19 200:10 208:19 269:13	discussion 102:10 115:3	114:15 115:17 116:2 117:15 118:10 124:8	113:6 122:18 140:23,24 141:6
disagreement 116:23	disclosed 47:13 48:13,16	discussions 58:10 74:6	147:12 148:1	145:14 152:7
Disclosure 8:8 243:12	distinction 99:6 120:22 140:17	distinction 137:9 145:14	151:2,18,20	153:6 154:21
disclosures 78:5	distinguish 140:24	distribute 19:23,24	154:10 156:1	158:15 215:13,17
discontinuation 7:17 231:12,16,24	distributed 20:21	distribute 19:23,24	160:10 179:15	215:17 216:17
233:1,8,16	distributing	distributed 24:6,8 246:20	191:2 194:1,9,13	217:12 218:5
		distributing 247:7 248:2,9 249:24 257:20	196:7 207:6	222:3 223:15
			215:12 221:14	231:23 237:3
			222:9,15 232:16	238:11,13 239:4,6
			232:19,20 238:6,8	244:10
			239:1 240:1,5,16	doing 14:17,17 18:1
			242:1,7 243:2,18	36:17 59:9,22,23
			244:6,8 246:20	72:23 73:2 88:24
			247:7 248:2,9	96:9 107:15 154:4
			249:24 257:20	172:6 201:2
			268:7 272:15	210:13,16 211:19
				237:14 258:12
				261:15
				domain 230:11
				dosages 156:19
				dose 155:15 158:8,12
				260:15,20
				dose-response

155:24 156:2 189:15 doses 156:7 261:3 doubt 224:22 242:17 download 95:8 Dr 5:17 10:11,16 17:13,18 20:9,11 21:11 39:2,23 53:24 59:13,13 66:19 76:13,13 79:9 81:15 82:3 83:7,19 97:12 105:10 114:5,21 116:4,24 117:21 118:17 119:4 124:9 134:12,24 148:9,16,21 156:10 178:23 188:17,19 195:16 195:18 197:3 200:15 206:2 208:24,24 209:1 211:7 212:17,21 213:4 233:3 238:12 250:3 251:24 258:19 259:14 270:1 271:23 272:5 276:24 draft 235:6 drafted 27:18 draw 19:17,19 20:3 200:23 201:19 202:4 205:11,16 205:16 drawn 114:18 116:19 201:24 draws	20:3 117:2 drive 95:3 139:1 203:12 driven 159:14 driver 212:22 drives 151:7 Dropbox 6:11 94:15 97:8 107:22 drove 137:23 Drs 141:9 drug 108:17 109:18,19 122:12 123:14 169:11 170:11 drugs 261:19 drums 158:3 Duces 7:22 8:5 duly 10:5 280:5 dump 97:23 duplicated 113:8 duration 180:22 189:15 190:4,14	e.g 100:1 earlier 17:18 33:18 42:23 56:9 58:15 113:15 124:20 136:7 154:8 211:7 238:24 241:15 early 27:14 57:15 113:5 266:5 ease 84:2 easier 81:19 110:14 easily 131:1 EC 43:12 edition 193:16 editor 186:3 194:12 editorial 158:3 Duces 7:10 193:11,22 195:8 effect 6:16 8:18 156:8 203:23 264:9,14 264:21 effects 150:15 157:7 EFSA 42:15 43:7,8 44:1 either 26:16 29:8 45:15 45:19 47:5 55:6 E 10:1,1 E-l-d-r-i-d-g-e 11:12 e-mail 41:11 57:14,15,19 61:2,7,13 e-mails 96:17	Eldridge 11:12 electron 256:24 electronic 60:17 95:7 electronically 97:10 elongated 73:20 75:2,21 emerging 15:10 employee 17:6 280:13,14 employees 17:1 217:16,17 218:1 enable 180:7 ended 13:7 engulf 151:15 ensure 226:17 227:2,15 enter 191:13 entered 12:16 109:20 entire 98:23 276:23 279:5 entirety 98:6,7 224:23 225:2 entity 106:9 entry 191:11 ENVIRON 152:21 161:14 214:18 215:14,18 216:17 217:8 226:22 228:14,20 230:24 242:12 250:24 252:3 280:15	270:23 enzymes 267:23 270:20,21 EPA 56:12,23 57:3,11 57:21 242:6 243:2 EPI 116:16 epidemiologic 202:10 epidemiological 181:16 202:8 229:20,21 epidemiologist 117:7 epidemiologists 203:2,23 epidemiology 275:20 epithelial 258:3 equal 20:4,22 equally 144:1 200:19 equate 196:22 197:13,19 equating 145:8 equivalent 43:3 ERRATA 278:1 279:11 error 119:1 ESQ 3:5,6,16 4:6 essentially 62:24 111:24 115:4 179:9 establish 133:6 226:8 228:3 established 169:12 estimate 21:18 22:17 23:8
		E 10:1,1 E-l-d-r-i-d-g-e 11:12 e-mail 41:11 57:14,15,19 61:2,7,13 e-mails 96:17	ENVIRON 152:21 161:14 214:18 215:14,18 216:17 217:8 226:22 228:14,20 230:24 242:12 250:24 252:3 280:15	

23:12 168:15 et 1:11,14 7:15 8:16 8:20,24 9:5 10:22 ethics 218:3 EU 176:21 European 43:10,11,12 evaluate 252:10 evaluations 53:22 events 109:17 265:6 eventually 136:20 everybody 61:12 evidence 7:10 114:17,24 115:17 116:15,16 117:5,13 118:14 118:21 121:15 125:3 189:6,7 204:2 205:9 208:9 209:6,7 211:14,20 212:11 214:4,6,23 214:24 216:21 217:5 224:13,18 225:16 231:8 235:13,14 236:20 253:9 258:23 exact 20:12 23:23 26:15 35:17 74:18 152:20 168:9,23 185:20 exactly 15:19 31:6 54:1 124:16 137:4 142:3 148:24 170:8 184:17 194:24 195:15 249:12	examination 5:2 10:4,8 134:4,23 examined 10:5 134:6,12 135:1 139:16 156:10,15,21 276:4 Examining 7:9 example 15:2 26:10 47:20 56:22 73:7 90:13 91:5,8 92:1 93:6 93:13 94:20 97:16 99:19 100:1,13 115:11 116:22 117:12 125:24 128:3 139:11 140:23 145:18 156:1 164:3 176:18 222:12 236:17 239:8 241:11 242:6 267:3 examples 15:17,18,19 51:20 145:19,20 222:5,6 222:14 exclusive 37:3 exercising 271:18 exhaustively 134:7 135:1 exhibit 5:10,13,16,19,20 5:22 6:3,6,9,11,13 6:16,20 7:3,8,12 7:16,20 8:3,6,8,10 8:12,17,21 9:3 24:22 25:2,13 26:22 27:22,24 33:10 45:9,9,11 45:13,18 47:18 49:21,24 50:16 57:9 67:15,18,20	84:13,17 85:10 86:3,6,12,15 107:21 108:3 109:4,22 110:3,6 111:15,18 112:7 112:13 113:18 119:19 120:1 125:19 147:11,13 148:12 154:8,9,11 154:15 179:14,16 193:20 194:2 196:3,10 207:5,8 207:24 210:21 232:11,17,21 233:17 238:7,9 239:23 240:2,14 240:22,22 243:10 243:19 245:8 246:18,21 249:21 250:1 257:19,21 268:4,8 272:11,12 274:24 275:9,12 exhibits 5:8 6:1 7:1 8:1 9:1 24:20 90:19 93:4 238:4 existed 181:1 276:4 existing 14:15 exists 129:1 182:6,15 223:14 exogenous 263:1 expect 73:8 152:17 177:21 229:10 269:12 expected 151:9 209:3 expense 66:7 expenses 22:20 65:15,22 66:5 experience	53:16 152:3 203:6 experiment 269:9 expert 1:17 2:10 5:22 6:3 6:6 8:9 47:14 52:21 76:6,12,24 78:3 79:9,16 81:1 86:13 98:21 99:2 162:14,19 163:21 164:13 165:10,15 165:18 166:1 167:8 224:12 227:1,13 243:12 244:11 247:10 254:16 256:12,18 258:4 expertise 13:15 76:9 227:7 227:11,20,21 256:19,23 258:9 experts 66:10 163:2 249:15 expires 280:24 explain 81:6 123:13 168:10 169:3 explanation 156:18 168:12,15 explicitly 143:24 exposed 180:13 264:22 exposure 6:17 137:19 150:13 151:11 155:6 180:23 183:10 192:7,20 193:4 196:20,23 197:20 212:7 260:15,17 261:16 262:24 263:19 exposures 126:17 express	102:20 expressed 92:4 98:5 115:14 121:9 215:14 219:5 expressing 97:20 expression 259:21 260:2 261:8 extended 151:21 extent 37:22 38:6 39:1,11 43:18 59:24 76:16 80:17 81:3 103:3 103:22 104:2,13 127:8 192:6 209:1 276:3 external 269:22 externally 248:4 extracts 35:3,4
F				
F 3:6 69:6,7 F-S-A-N-Z 42:22 F344/N 6:18 fact 33:4 115:18 138:23 138:24 152:12 172:21 181:6 186:5 190:3,12 199:8 200:17 210:5 211:7 217:15,20 226:16 231:22 233:12 241:14 243:4 247:12 248:19 269:1 failed 221:24 225:17				

failing 220:18	FDA-regulated 121:1	148:13 149:2,7,8 150:9,18,23 151:8	findings 143:22,24 148:13 149:14 159:22	75:19 93:10
fair 22:21 23:16 33:6 67:8 254:8	February 30:10 40:23 41:22 58:16 75:17 76:5	151:18,22 152:7 153:13 154:1 250:23 253:2 273:17 274:2	160:11 187:18 199:20 200:16,18 205:7 259:2 269:15	focusing 93:12 149:14,19 157:5 264:12 274:5
fallopian 180:8	141:17 235:1 280:24	figure 19:2	fine 62:21 135:17 243:15	folders 97:12
familiar 80:10 83:9 118:17 162:10 202:9 208:23 256:22 258:10,21	Federal 58:21 108:5,7,15 122:10,15 123:24	file 170:19	finished 13:3,3 36:5 175:9	folks 212:16 221:17
familiarity 79:11	feedback 62:20,20	filed 27:3 31:14 46:11	firm 3:15 19:10 28:19	follow 108:1 276:20
family 78:9	feel 97:19 113:11 119:23 200:11	files 154:22 155:2 170:17	29:16 31:20,22 36:18 38:21 48:22 49:8,13	follows 10:6
far 12:21 18:18 34:2 37:12 95:2 101:22 107:20 110:1,9 112:19 127:17 156:7 171:17 173:3 218:9 230:3	fees 19:11,15 24:5,6	filling 78:20,21	firm 26:19 49:1,12 65:9	food 15:11,14 36:22
fast 173:1	felt 121:7 223:14	filter 154:23	first 24:23 51:14 52:23	42:14,20,21 43:10
FDA 13:4,6,9 14:1 17:9 17:10 41:2,10,11 41:16,21 42:6,10 43:5 44:14 46:10 54:20 58:16 59:3 60:8,17,21 61:5 61:17,17 62:5 69:8 72:19,20,24 73:9,21 75:9 78:2 120:13 127:5,17 127:21 163:20 164:2,17,19 167:2 167:5 217:1,10,18 217:24 218:1,4,8 219:8,14 220:12 220:19 222:1 226:15 234:9,22 235:2,3	fiber 69:11 70:5 141:1 151:12,16 252:16 252:19,20,23	filters 132:1 133:24	filters 107:23 109:24 114:2,3 116:2 118:22 120:2	43:13,15 44:1,1,2 122:12 169:11
FDA's 75:16 122:6 123:4	fibers 68:21 70:19,21,22 71:9 73:19 75:24	final 7:3 77:10 85:20	foods 130:22 133:23	
	75:24 130:22,23 131:7,8 134:5 140:8,14,21,21 142:23 146:4 150:9,18,23 151:4 151:9,13,22 251:6 251:11,16,23 252:1,11 253:4,13 273:24	115:6 162:21 177:3,10	force 156:4 169:10	
	fibres 132:2,3 134:1	financial 250:13	186:22 187:13 196:13 207:10	221:22
	fibroblastic 253:23	find 24:16 28:8 115:12 115:12 117:15	209:16 219:10,11 221:3 241:4,23 246:7 280:5	foreign 77:24
	fibrous 69:3 71:6,8,11 131:18 140:9,20 142:6,23 143:5 144:13,15,20 145:8,10,17 146:9 146:21 147:23	118:23,24 148:9 149:4 152:20 160:13 169:5,14 170:5 177:10	fit 146:6 252:17	form 58:6 60:5,17 63:24
		178:9 190:6 194:8 200:1 257:16	five 146:6 252:17	73:13 74:9 75:12
		260:4,5 263:11 273:18	Fletcher 177:13 182:8	78:17 98:10
		finding 76:1 141:15 150:8	185:17 188:4,9	105:20 125:11
		150:17,22 160:17	FLW 190:22 191:22	128:6,23 132:3,12
		174:6 186:13	1:4	132:19 142:10
		189:9,13 218:18	focus 267:24	151:8 152:1,14,15
			focused	155:8,18 158:10
				159:11 163:23
				165:13 166:22
				167:11 172:2
				173:9,13 174:9
				175:8 176:14
				177:13 182:8
				185:17 188:4,9
				190:22 191:22
				196:5 198:23
				204:24 207:14
				208:2,17 210:23
				218:11 219:17,22
				223:24 226:10

227:5 229:2	frankly	124:12 128:15	237:10	160:13,18 164:21
233:19 236:7	113:14 134:13	Gates	give	165:20 168:1
250:9 251:2	free	214:11	15:1,16 22:16	169:4,8 170:5,8
256:16 265:1,14	58:7 88:19 113:11	gene	34:16,22 35:17	170:24 178:14
266:17 268:18	119:23	261:8	37:5 46:2 52:13	179:19 185:6
270:5 271:9	frequency	general	72:8 74:5 98:3	188:13 190:10
format	189:15 190:4	16:11,13 34:16,22	101:24 102:17	199:2 202:24
92:18	frequent	38:10 42:12 43:24	116:10 118:2	213:23 221:1
formatting	180:22	51:16,19 53:13	123:7,7,8 145:17	229:6,18,19 232:4
68:17	frequently	62:20 75:23 79:9	145:18 153:21	232:10 237:20,24
formed	203:22	80:24,24 88:5	168:15 170:20	238:13 239:18
114:9 130:23 131:8	friend	107:15 111:2	186:17 206:3	242:4 244:23
136:19 182:22	17:10	116:5,6 125:20	211:2 213:23	245:4,18 252:8
193:1 196:7	friends	151:6 152:12	216:19 222:4	253:16 262:11
204:15,17 218:13	52:18	154:4 156:18	give-and-take	268:21 276:11,15
219:3,4 225:23	front	176:15 201:17	63:1	Godleski
226:5 228:1	50:19 84:3,24 85:5	203:5,8 210:13,17	given	66:19 83:7,19
260:19 270:7	85:16 119:21,24	211:18 229:7	28:6 45:15 47:14	251:24 258:19
formerly	214:8,10	246:5 248:13	54:19 55:13 60:12	Godleski's
12:7	FSANZ	generalities	61:12 62:8 91:5	250:3
forms	42:20,22	34:13	92:3 94:15 96:12	goes
23:14 133:9 138:10	full	generally	118:8 121:7	39:11 132:22 143:4
152:8 270:24	10:13 88:23 196:13	16:5 81:8 106:10	130:14 146:5	240:23 254:9
formulations	full-time	126:5 155:24	193:15 196:14,19	going
35:20 39:16	12:12	156:5 182:2	210:2 227:8	15:16 22:2 24:21
Forrest	fully	197:14 203:23	263:15 270:16	33:2,24 35:5,8,10
93:13	111:9	214:3 263:2	276:18 280:9	45:8 49:20 58:5
found	fun	generate	gives	59:16 62:11,14,15
69:3 117:16 148:22	74:4	271:11	91:6	63:17 64:11,22,22
149:15 177:17	funny	generates	giving	67:14 74:20 75:3
186:8 187:8	52:22	271:6	213:18 232:4	83:6 84:12 86:2
234:23 247:8	further	genes	global	86:11 92:10 115:2
253:10	57:17 190:10	260:13	48:1	134:4 171:3,4,9
foundation	206:17 223:13	genetic	go	171:12,17 177:15
34:7 124:19	277:1	261:13	19:12 20:8,9 21:11	178:15 179:8
four	future	genital	35:19 49:16 59:10	180:17 187:13
41:10 45:16 81:20	17:23	7:8 183:21 184:12	60:1 65:11 71:12	190:6 203:3
88:6 184:10		185:13 187:1,19	73:22 74:14 80:17	219:12 220:14
186:23 275:3		189:16 198:19	84:1 88:12 89:21	235:15,23 237:1
fragrance	G	199:15	94:16 97:5,9,14	237:13 239:14
101:13,14,21,22	10:1	genitally	97:21,24 100:19	258:6 269:9
fragrances	gain	189:10	100:23 104:23	274:23 275:8
55:16 56:7 101:3,7	248:21	GEREL	115:3 116:6,14	276:2
102:6	gaining	2:13 3:4	124:3 125:15	Gonzalez
frame	38:18	getting	136:8 139:2 147:8	214:12
40:15	GAO	35:12,15 219:2	148:2 152:11	good

10:11,12 36:4 50:9,15 88:18 105:1 213:7 Google 87:22,22 Gorsky 90:18,20 233:3,3 Gossett 7:10 193:12,20 195:7,16 204:21 government 75:22 160:1 government's 160:11 Grand 4:7 great 13:20 GREEN 3:6 group 37:17 39:19,21 40:17,21 41:4,15 41:16,24 42:21 44:15 45:2 54:20 55:14 58:2 174:19 174:24 191:20 199:24 200:1 208:23 209:1 211:22 212:14,16 213:6 214:8,17 250:3 275:20 groups 199:10 201:8 growth 132:24 guarantee 17:8 guess 21:24 22:12,12,13 30:10 45:16 50:3 57:12 67:1 102:11 156:4 210:4 guidance 226:14 guys	243:16 Gynecologic 8:12 <hr/> H habit 145:11 146:11 152:8 Hamilton 229:14 255:12 hand 131:2 handle 151:12 handled 20:18 happen 121:16 171:10 266:8 happened 21:13 113:1 164:4 171:10 220:3 233:14 happening 226:23 237:16 happens 121:18 271:15 happy 52:19 hard 18:22 95:3 HARDY 4:5 Harlow 188:19 194:21 200:15 Harlow's 193:14 harm 120:14,18 121:11 121:15 122:3 124:23,24 125:1,4 harmed 51:22 hazard 115:20 121:13,20	125:21 126:4,9,11 126:13,22 127:12 128:20,24 129:6 129:18 151:5 152:24 153:23,24 154:2 157:8 169:21 170:9 120:12 120:12 hazard' 169:20 170:17 176:7 23:3 74:16 78:19 170:17 176:7 263:13 headed 67:9 heading 69:11 276:1 health 6:22 7:16 42:16 43:1 77:6,9,17,21 82:12 85:20,24 115:9 146:5,7,14 147:10,22 148:10 148:10,12 152:23 161:16,24 162:3,9 162:15,17 166:9 167:2,6,20 171:5 171:7,22 172:18 173:11 174:7,15 175:6,14,20 180:16 207:10,18 209:8 213:2 235:4 253:18 hear 58:19 heard 78:20 93:2 228:15 65:2 66:22 235:2 hearing 124:23,24 125:1,4 heavy 55:7,8 56:7 100:9 156:11,19 157:4 harmed 51:22 hazard 115:20 121:13,20	23:15 24:3,18 25:3 27:20 28:1 33:6,8 34:6,9 35:14 36:7 38:2 38:12 39:7,17 40:5,8,11 41:19 42:4,18 44:3,9,21 44:23 45:8,12 48:15 49:20 50:1 56:2 58:14 60:15 63:5 64:6 65:3 67:7,12,19 68:10 68:19 70:3 72:10 73:24 74:19 75:15 76:18,22 78:23 79:13,18 80:2,12 80:16,21 81:5,13 81:21 82:2 83:4 83:15,23 84:7,12 84:18 86:1,7,11 86:16 87:9 89:17 90:6 95:1 96:1,2 99:1 104:8,21,23 105:3,7,9,23 107:17 108:4 109:21 110:5,18 111:13,19 112:6 112:14,24 113:10 113:16 118:11 119:14 125:12 127:10,14 128:17 129:10 130:2 131:11,14 132:15 133:3,4,21 134:15 135:2,7,10,14,18 139:17,20,24 143:2,19 145:1,7 147:4,8,14,19 148:2,6,20 150:2 153:1 154:6,12,14 155:12 156:3,13 156:16 157:16 159:4,17 164:10 164:18 165:1,9,23 166:6,14 167:7,18 168:6 172:17	173:10 174:4,17 175:12 176:10,24 178:14,20,22 179:10,13,21 181:21 182:9,11 182:18 183:15 184:4 185:4 186:19 187:6,11 188:5,10 189:11 190:15 191:9 192:5 193:2,19,22 194:3 196:9 197:10 198:15 199:5 201:5,12,21 202:18 203:16 204:19 205:19 206:11,20 207:4,9 207:22 208:12,20 209:22 212:13 219:6,18 220:16 221:2 224:9 226:24 227:12 229:23 230:7,18 232:9,14,18 234:11 235:21 236:22 237:19,24 238:10 239:13,18 239:22 240:3,21 241:20 243:8,16 243:20,24 246:17 247:2,24 249:1,20 250:5,10 251:14 251:20 253:15 254:18 256:11 257:4,18,23 258:24 261:1 262:10 265:9,19 267:9 268:3,9,23 270:18 271:17 272:22 274:22 275:4,8,13 276:6 276:11,15 277:3 held 2:11 51:17 74:3 77:9 help
---	--	---	---	--

80:20 93:22 222:15 239:1 helped 16:16 238:23 helpful 98:2,4 112:23 hereof 279:11 heterogeneity 199:11,23 201:7,8 202:14 high 178:3 211:21 higher 123:14 highlighted 204:1 highly 197:24 historically 87:7 history 193:4 hold 27:2 84:11 128:2 242:2 home 11:15 170:19 home-based 11:18 hope 128:8 hopefully 107:24 143:14 266:10 270:14 hotel 65:16 hotels 67:1 Hotlist 160:13 171:1,18 Houghton 214:11 hours 17:8 81:20 245:15 275:3	Houston 11:13 HR 199:10,11,24 HRs 199:9,23 202:13 huh-uh 17:16 human 108:18 144:13 146:4 149:17 150:13 152:9 153:13,17 156:6 215:3 259:9,9,13 262:23 271:6 humans 209:24 husband 17:4 68:15 hydrogen 271:2 hydroxyl 271:2,2 hypothesis 188:22,24 200:21 hysterectomy 198:18 <hr/> I i.e IARC 100:20 130:7 133:7 134:8 138:9,18 139:3,7,13,13 143:23 144:12 152:6,6 165:2,10 213:20 214:5,7,10 214:17 274:4 275:20 IARC's 138:21 143:22 145:13 idea 121:20 158:18 217:14,20 256:7	269:7 identical 138:21 238:18 identification 25:2 27:24 45:11 49:24 67:18 84:17 86:6,15 108:3 110:3 111:18 112:13 147:13 154:11 179:16 194:2 207:7 232:17 238:7,9 240:2 243:19 246:21 250:1 257:21 268:8 275:12 identified 47:13 56:11 78:10 91:13 99:3 103:24 121:14 127:17 132:2 134:2 identify 35:7 56:16 127:24 147:22 150:21 182:5,13 184:14 190:18 191:18 192:6 193:3 238:23 241:21 250:18 identifying 34:14 138:23 imagine 24:15 165:17 191:23 Imerys 217:9,16 221:18 immortalize 269:8 immortalized 268:11 269:2,18 270:2 immune 262:21 266:22 immunocompro... 261:20,24 262:8,14 262:18	immunosuppress... 261:18,19 immunosurveilla... 262:7,9,13,22 impact 172:13 impacted 24:2 importance 115:19 256:20,23 important 120:8,22 121:3,10 126:20 130:17 141:7 189:6 198:3 200:19 203:24 261:6 271:12 274:3 in-depth 115:10 117:11 in-face 73:16 incidence 183:21 184:12 185:14 include 25:6,23 26:4,5,8 48:8 65:17 82:11 123:5 126:17 161:21 185:10 206:23 214:21 253:3,17 254:20 included 99:4 112:9 117:17 162:18 214:14 includes 50:21,24 106:17 132:17 253:12 including 24:2 106:24 140:9 140:14 150:15 177:20 221:22 251:21 income 18:16 19:3,4,5 inconsistent 220:15	incorporated 103:7 increase 150:14 184:14 192:21 261:21 increased 8:23 186:13 189:9 215:3,6 262:1 increases 271:18 INDEX 5:1 indicate 120:17 244:19 indicated 148:17 197:3 279:10 indicating 147:23 indirectly 280:16 individual 30:4 97:12 100:20 114:24 117:5 125:5,6 159:15 180:11 182:2 205:10 206:10 211:5 218:23 235:12 262:19 individuals 26:6 96:12 107:4 183:13 191:13 233:22 261:20 industry 13:8 217:1,4,7,8 218:22,22 220:6 220:18 221:11 infants 160:24 161:9 infection 265:23 266:2,5,7,9 inflamed 253:23 inflammation 138:4 265:21 inflammatory
--	---	--	---	--

157:13 259:6 271:13 influence 217:1,4,21 218:7 218:16,22 219:15 220:2,7 influencing 219:1 inform 187:18 226:19 information 45:7 62:4,5 80:1 81:1,4,23 82:4,8 93:8 114:19 115:20 160:20 163:14 165:8 169:19 183:10 190:14 191:4,6,15 192:18 195:14 198:1 205:11 212:7 214:24 222:1 244:18 246:3 261:6 informs 169:19 ingredient 33:23 34:14,23 35:6,24 36:1 37:10 44:5 126:13 175:15,22 176:20 ingredients 15:10,15 33:22 35:1,3,8 36:21,22 37:7 39:15 126:18 128:1 170:11 175:10 176:5,8 227:10 inhaling 161:3 inherent 120:16 initial 14:18 86:8,21 100:7 216:22 initially 13:13 139:6,11	initiatives 14:3 injected 269:18 injuries 46:7 51:21 injury 46:11 inn 182:20 inquire 113:12 inside 234:1,18 236:1 inspection 280:10 instances 20:15 218:15 instruct 128:11 insult 265:11,12 insults 266:23,24 intact 203:20 Integrated 12:7 Integrative 5:10,13 12:9 13:12 13:14 intellectual 19:9 34:19 intend 102:14 103:22 104:2,13 233:15 interacted 38:6 43:15 51:15 interacting 41:11 interaction 44:13 interactions 42:13,15,16 43:14 217:6,10,24 220:12	interest 17:24 18:4 59:23 196:22 interested 13:11 52:10 59:9 170:18 221:16,21 280:15 internal 26:4 73:1 104:12 104:14 107:3,6 110:24 140:24 236:18 interpreting 76:10 interrupt 275:2 invite 77:16 invited 51:14 52:13 53:2 163:1 invoice 5:12,15 25:20 26:11,22,24 27:11 27:12 28:7,11,20 28:21,23 29:14 30:19 32:5,17,19 244:20 invoiced 25:14 32:8 5:11,14 24:20,22 25:6,11,12,13 27:21 28:3 29:20 33:10,11 89:1 involve 38:6 43:15 51:15 involved 16:7,11 24:10 26:20 31:23 41:5 47:4 58:3,24 175:13,24 216:10 270:10 involves 43:18 involving	3:6 January 7:11 13:2 193:23 245:16,17 Japan 42:17 43:3 Japanese 43:3 176:22 JERSEY 1:2 jgreen@ashcraft... 3:11 John 217:17 Johnson 1:4,4,14,14 4:3,3,3 4:4 7:16,16 8:16 10:22,22 16:1,1,3 16:3 76:2 93:18 93:18 95:17,17 106:1,1,2,2,2,3,10 106:10 153:5,5 157:23 158:24 159:1 217:15,16 228:2,2 231:15,24 232:4,5,11,12 233:9 234:12 236:1,1 237:4,5 249:8,11,17,21 250:7,18 251:12 252:8 253:17 255:22 256:13 Johnson's 7:18 76:2 80:4 106:14 113:20 157:20,24 159:7 231:12,16,24 233:10 234:13 236:2 jointly 14:4 journal 88:19 judge 237:9 Judith
--	---	---	---

52:15	93:23 98:4,5	213:1,4 216:7,8	labels	lawyers
July	167:24 220:12	220:1 223:17	106:18	62:9 72:4 94:3
27:3 242:5,12	236:19 257:1	224:19 226:18,20	laboratory	lay
June	258:12,22 268:14	233:24 234:19	267:21	34:6 178:6 212:12
5:24 27:4,7 58:1	269:22	235:2,4 237:4	Labour	214:4
84:14,21 89:8	Kleiner	239:1 242:16	42:17 43:2	lead
101:24 105:11	29:20,23	244:7 247:11	lack	38:23 271:14
jury	Klimisch	251:7,13 254:10	6:16 186:6 224:6	leave
224:19	211:10	256:6 259:12,13	laid	67:3,10
K	knew	260:8 263:9,12,14	124:19 169:1 170:1	lecture
K	53:1 63:20 93:1	264:6 272:2	170:3 211:15	51:15,16,18 52:14
2:14 3:7	know	knowing	Langseth	52:18 53:4,12,13
Kansas	13:11 15:12,21,22	151:7	9:5 274:11,17,23	lectured
4:8	15:24 16:5,10,13	knowledge	275:9	174:18,23
Kathleen	18:2,3 19:19	16:8 79:19 106:23	language	lecturer
96:20	22:13 24:8 26:19	196:1 220:10,20	70:2 130:6,11	51:14
keep	29:1,3 31:18	222:7 228:10	131:21 142:4	lectures
50:19 180:17 263:1	32:20,22 36:3,6	known	147:3,7 149:9,11	55:6
269:8	37:6 46:16 47:23	12:7 41:14 87:8	173:16 185:20	left
keeping	52:20,24 57:14	140:20 144:13	large	216:1 275:6
57:17	58:22 59:8,22,24	146:4 149:17	75:5 95:5 186:23	left-hand
Kennedy	60:6,7 62:23	152:9 153:13,17	Larisa	113:19
124:9 127:20,21	63:21 65:19 66:16	156:6 213:6	12:17,18	Leigh
key	66:20 67:2 70:11	knows	Larisa's	63:6
270:20,20	70:20 71:12 73:22	243:23	17:10	length
keywords	78:13,24 79:3,6	Krewski	late	127:12
94:12	79:13,16 80:3,13	208:24 212:17,21	57:15	lesions
kicking	80:18 82:14,19,20	213:3	Lauchlan	255:8
22:2	82:22 83:18 85:1	Krishnan	8:11 245:23 246:6	let's
kill	90:11 91:9 95:10	208:24	246:18 247:16	89:20 104:23 147:1
85:13	97:21 98:2 102:7	Kuffner	laugh	168:18 237:24
killing	103:9 112:20	114:5 118:17 242:1	11:5 21:9 30:18	265:21
263:24	116:18 117:1,9	Kuffner's	50:9 67:6 82:16	letter
kind	121:16,17,18,19	114:21 116:4,24	85:14	8:6 239:11,23
18:22 33:23 34:22	136:6 143:15	L	Laura	letters
67:5 76:8 100:3	146:23 157:9	lab	1:18 2:10 5:3,17,20	186:2 194:12
125:8 126:5	172:4,5,15 174:13	258:15 267:22	5:23 6:4,7,10,12	letting
180:24 239:2	175:10 181:15	label	6:13 7:21 8:4	59:22
256:20 257:2	186:14 192:1,11	129:8 169:19	10:3,15 279:19	levels
261:12 269:11	193:18 194:11,14	173:16	law	140:8 150:14,23
270:16	195:16,18,20,24	labeling	3:15 19:10 28:19	151:11,22 152:15
kinds	198:5 199:3	120:13 122:7 123:4	29:16 31:20 36:18	152:17 153:11
35:19,20 37:2 43:5	205:20 208:3,6,24	123:14 126:19	38:21 65:9 124:5	155:15 157:17
48:1 51:21 52:11	209:1,2,5 210:1	127:18 128:1,3	169:9,11	158:16,21
56:1 59:2 82:21	211:6,16,20,21	168:5 173:24	lawyer	LGH
	212:3,14,15,24		19:22 68:4	1:4

LIABILITY	199:10 212:18 213:17 225:6	137:10 154:18 162:20 163:3,6,21	100:19,24 101:6 102:10 108:13	137:5 148:22 149:12,16 150:5
Lifetime	228:6 229:17	164:13 165:11,15	109:17 117:7,8	161:14 164:23
6:17	239:8 240:12,14	166:2 249:15	125:14 129:5	169:9 185:20
ligation	241:16 242:18	258:19 268:21	133:15 136:9	188:6 189:13
190:19 192:8 193:6 198:17	243:5 249:18,19 272:1,3,4,16	little 35:12 61:2 93:11	138:5 146:1 147:2 148:17 149:21	192:14,17 194:8 204:4 205:22
likelihood	273:6 274:13	155:1 178:16	158:13 160:18	220:24 235:3
120:14 121:3,24 122:3	listed 47:16 49:19 51:4	181:8 216:20 240:16	164:8,22 169:8 180:4,19 183:8	245:2 248:14 249:18 254:16
limitations	51:13 54:4 60:1	live 64:12 79:17	188:2 190:24 192:13 193:8,9	256:24 257:13
38:14 115:15 177:23 212:1 276:18	71:5 106:9 108:6 138:1 146:1 163:13 213:21	lived 79:7	194:15 196:10 199:3 201:3	261:12,15 262:20 265:6 267:22
limited	244:10 245:10,11	LLC 5:10,13 12:5 18:7 19:21	205:10 209:8 211:1 215:8 219:11 221:15	273:14
80:19 161:3 172:19 180:13 266:2	listen 171:15	LLP 2:13 3:4 4:5	222:5 224:12	looks 70:16 115:5 261:18 264:11
limiting	listened 171:13,14	local 266:2,7,10	229:12,13,14,15	lost 204:5
56:21 163:15 174:1	50:12 161:14	localized 264:15 266:15	229:16 233:4 243:21 244:4	lot 18:2 19:4 35:2,3 43:4 48:24 92:7
limits	218:18,19 219:2	267:2	245:5,6 247:23 250:11,12,19,22	235:20
line	222:11	located 16:22 46:15 266:3	251:4,5,7,12 252:4,9,23 259:12	lots 94:15 153:12
116:6,7 138:6,11 138:14 143:21 144:10 204:9 278:3,5,7,9,11,13 278:15,17,19,21 278:23	lists 53:7 113:3	location 16:21	259:15 260:7 272:4,13 273:2,4 273:13	157:18,19,23 158:6,7 159:7
lines	100:14 115:11	long 101:7 108:11	looked 85:8 88:7,8,11	Louis 1:8 118:4
117:18 135:23 145:4,5 175:22 259:13	128:15 139:7,9,10 155:5 165:3 229:6 229:7,10 248:13 248:14 264:11	112:20 115:3 130:24 154:23 168:12,14,16 180:14 183:14	98:22 100:13,15 107:6,19 112:1 133:14 139:7 142:21 154:8	low 150:14,22 151:11 151:21 152:15,17
link	litigation 1:6 10:17 16:8,17 16:19 17:15,19,21	longer 172:11	163:14 165:22 166:7,18 178:13	lower 113:19
linked	18:1,10 19:12	Longo 76:13 141:9,16 142:7 143:5	183:3 199:1 211:4 215:4 248:3 264:6 264:11 272:23	luckily 211:2
155:5 271:13	20:8 21:2,12,20	look 23:5 29:3 31:12	273:1	lunch 65:14 66:17
list	22:5 23:1,4 24:5,7 24:10 28:4 33:19	33:9 38:17 50:2	looking 29:9 35:3 50:11	lung 153:20 160:21
5:16 29:10,10 45:13,17,18 51:12 57:1 60:24 69:2 94:19,21 99:5,8 99:19 101:7,9,17 101:18 103:9 135:24 136:4 145:23 153:21 162:19 195:21	33:21 35:23 45:20 47:22 58:3,24 62:10 64:18 66:22 68:4,5 69:14,19 70:8 72:5 82:18 86:21 118:18	65:11 67:20 68:16 71:13 72:22,23 73:23 74:14 84:19 88:16 94:12 96:23	73:4 87:7 88:12 89:6 96:5,7,14,24 110:16,21 111:3 111:22 125:4	161:7
				M

M	37:20 38:4 173:4 1:18 2:10 5:3,17,20 5:23 6:4,7,10,13 7:21 8:4 10:3 279:19	marketing 1:5 14:14 124:6 manufacturers 47:9 March 25:19 113:21 marine 258:3 mark 4:6 24:20 27:21 macrophages 260:2 263:4,6,14 263:20 264:13 265:10,24 266:13 266:13 Madison 109:21 111:15 112:3,6,22 135:14 mailing 11:19,24 147:9,10 179:14 193:19 207:4 majority 232:10,11 238:2 239:11,14,19,22 243:10 246:17 making 13:23 60:1 99:10 100:5 152:5 156:5 161:19 207:11 270:1 Maldinado 264:14 Mandarino 8:20 257:9,19,24 259:2,19 263:3 264:17,18 mandate 171:22 173:6 mandated 170:21 173:15 Mann 90:14 96:15,15,22 Mann's 224:24 manner 41:23 manufactured 46:5 manufacturer 128:8 169:18	marketing 17:2 24:23 25:7 marketplace 25:14 26:12,20 109:20 marking 27:10 28:6 30:6 31:2,3 52:3,21 54:18 55:12 56:4 Massey 57:24 58:2 77:5 10:15 master's 79:6 80:3,13 51:18 material 81:24 82:5 83:2,5 83:10,24 84:14,14 133:7 134:11,11 135:24 242:18 materials 87:11,13 88:21 6:9,11,14 10:24 11:6,8,21 89:10 99:5,8 103:1,12 103:20 107:18 108:11 109:24 111:2 112:9,20 134:20 139:2,3 154:7 162:19 175:23 239:7 240:6,11 241:3,14 263:17 marked 25:1 27:23 45:10 45:17 49:23 57:9 67:15,17 84:16 85:9 86:5,14 89:2 108:2 110:2 111:17 112:12 119:19 120:1 147:12 148:11 154:10 179:15 194:1 207:6 210:20 232:16 238:6,8 240:1,16 243:18 246:20 249:24 257:20 268:7 275:11 market 122:14 228:19 231:1 235:18 marketed 1:4 3:3,14 5:11,14	7:22 10:17 14:19 17:2 24:23 25:7 25:14 26:12,20 27:10 28:6 30:6 31:2,3 52:3,21 54:18 55:12 56:4 57:24 58:2 77:5 78:1,4,5,8,11,15 79:6 80:3,13 81:24 82:5 83:2,5 83:10,24 84:14,14 84:21 85:17,18 86:2,4,8,9,20 87:11,13 88:21 89:11 90:1,22 91:20 92:7,19,19 94:1 100:7,7,18 101:1,18 102:1,8 102:15,16,20,24 103:18 104:4,15 105:11,18,24 106:21 107:5,13 108:8,9 109:7,9 112:18 113:4 119:18 124:15 130:4,15 136:8,10 136:18,20,22 matter 137:8 177:2 30:16 31:17 32:13 32:14 46:3 202:8 279:6 matters 18:10 21:20 23:1 32:24 33:19,21 35:23 36:8,12 37:9 38:15 52:2 McDermott 46:23 47:1 McDonald 241:12 249:6,10,16 250:17 252:8 256:13 McLaughlin 213:1 MDL 1:4 3:3,14 5:11,14	121:12,23 137:14 142:16 143:15 158:1 161:15 163:11 164:17 178:3 185:19 197:7 202:23 208:4,7,22,23 211:7 217:3 229:12 231:4,6 234:8 235:7 259:4 265:16 269:3,15 meaning 175:17 means 32:17 43:2 100:1 120:14 121:13,15 150:13 201:7 263:23 269:4 274:1,3 meant 53:11 measuring 264:4,5 meat 15:12 mechanism 157:11,14 196:19 198:4 262:22 mechanisms 260:14 271:13 mechanistic 260:6 261:5,6 mediators 269:22 medical 45:24 46:5 47:6 87:15 155:5 165:3 174:18,23 Medicine 14:5 meet 62:9 63:9 64:16 66:11 meeting 41:2,4 44:18 58:16 58:19 59:12 61:8
----------	--	---	---	---	---

61:17,23 62:12	mhegarty@shb.c...	222:6 275:5,5	Montgomery	20:19 97:21 118:6
63:6,10,12,15	4:10	missing	3:19	154:3
64:16,18 65:5	MHLW	118:24	month	necessary
66:10,13,17 67:3	42:17 43:1	Missouri	32:7 89:5	156:8
72:2,4,9,19,20	Mice	1:9 210:11	months	need
73:11,15,16,18	6:18	Misstates	88:6	30:14 79:14,14
74:1,3,6,13,23	MICHELLE	94:8 183:24 184:21	morning	97:18 101:4,6
75:5,16,20 76:4,6	3:5	187:10 188:9	10:11,12	108:12 115:21
76:23 77:12 78:2	micronized	189:19 200:5	motivation	120:15 121:18,22
175:4 216:7,8	255:6	201:10,10,11	233:23	122:4 125:14
221:15,17 222:6	microscope	202:21 204:13	mouse	128:20 129:17
235:1	131:24 133:14	mistake	258:1	149:20 169:2
meetings	254:17	119:1	move	179:8 222:14
41:12 51:8 75:9	microscopically	mistaken	267:1	231:2 232:3
216:6	253:13	117:16	mparfitt@ashcra...	249:17 250:12
members	microscopy	mistakes	3:10	255:23 259:15
221:20	256:24	241:10	Mullerian	needed
memory	middle	MIT	8:10	31:1 50:4 148:17
224:6,15,17 272:14	130:6	13:3	multiple	223:14 239:7
272:17	migrate	mitigate	134:14 138:2,24	266:15
mention	253:9	174:3	209:14	needs
136:12 181:9,15,15	migration	mitigation	N	155:22
231:11,15	116:22 246:4	171:4 173:22,24	N	neither
mentioned	251:16,22 252:10	mixture	10:1	226:21,22 250:17
32:23 43:6,15 53:1	million	157:6 159:15 253:5	name	Nettesheim
54:3,8 56:9 58:15	121:19	mixtures	10:14 12:2,10 25:7	97:3 225:9
59:15 63:19 64:15	mind	35:4	47:1 49:2 60:9	nettle
67:12 86:1 123:22	106:11 223:10	MO	64:13 82:15 92:8	97:2
123:24 214:8	233:21 235:12	4:8	244:2	never
230:9 235:22	237:10 276:23	model	named	164:23 166:4
Merit	minds	46:6	79:1,1,5	176:16 180:23
1:23 2:22	234:18	modified	names	183:13 219:24
Merker	mine	69:14 70:8,13,23	35:18 65:12 66:18	new
17:13	13:16,18	modify	78:13,20 79:3,17	1:2 12:23 14:2,2,15
met	mineral	70:18	96:12 128:13	14:21,21,24 15:5
52:15,23 212:20	73:20 75:2,21,24	molecular	national	15:8 17:5 18:6
metals	132:3	8:21 13:19	49:3	19:7 21:14 42:21
55:7,8 56:7 100:9	minerals	53:10 67:13 162:13	natural	54:16 85:22 87:3
100:20 156:11,19	156:12	239:14	35:2 133:19	87:3 89:7,15 91:2
157:4	Ministry	money	nature	91:4,12,17,19,22
method	42:16 43:1	66:2,3	35:13 44:20 52:10	94:22 95:12,16,16
91:16 208:19	minute	monocytes	117:20 119:3	99:3,4 112:8
methodology	245:1	263:7,9 264:9,12	NCI	119:17 128:4
211:18	minutes	monograph	115:12	134:11,16,19
methods	60:12 61:9,10	130:8 133:8 153:22	necessarily	181:13 215:10,12
15:15 76:12 258:9	168:17 221:8			215:13,13 218:7

225:11 239:8	notebook	Nurses'	158:9 159:10	133:13 271:21
242:12,19,21,22	11:3,4 85:16	180:16	163:22 164:14,20	occurred
242:24 243:1	noted	NW	165:6,12 166:3,11	27:14 82:21 90:1
257:10	213:20 277:5	2:14 3:7	166:21 167:10,21	215:19 218:5
newer	notice	NYU	172:1 173:8,12	occurring
181:14	2:20 7:20 8:3 25:17	51:14,18 54:22	174:8 175:7 176:2	253:7
newsletters	32:16 70:14 87:8		176:13 177:12	off-track
59:2,4	99:23 110:13	O	181:20 182:7,21	185:8
nice	111:8 154:3	O'Brien	183:23 184:20	offer
212:4,6	171:19 173:17	179:2,5,7,11,24	185:16 187:3,9	102:15 279:12
nitric	223:13 228:9,13	182:4,12 183:19	188:3,8 189:18	office
271:3	238:19,22 239:16	186:3 188:17	190:21 191:21	11:15,16,18,23
NOD	noticed	193:12 194:6,18	192:23 196:4	14:6 73:7
6:9,12	162:1	195:14	197:2,22 198:22	offices
nominated	notices	O'Dell	200:4 201:9	2:11 97:10
56:17 57:13	238:3	59:19 64:1,15 65:6	202:17,20 204:12	oh
nominating	noticing	O'Dell	204:23 206:1,7	18:15 23:20 48:24
52:17	29:8	63:6	207:13 208:1,16	50:8 60:22 65:19
nomination	notified	oath	209:12 210:22	102:13 123:7
57:21	62:13	279:13	218:10 219:16,22	126:2 161:23
non-asbestiform	novel	object	223:23 226:9	204:7 206:22
146:12 149:14	15:14	33:3 34:1 35:11	227:4 229:1 230:4	210:13 213:14
non-exposure	November	37:22 41:17 58:6	233:18 234:16	229:3,16 231:19
196:24 197:21	5:12 6:5 24:24	76:16 117:20	236:6 247:20	237:8 245:1 254:6
non-litigation	48:21 86:3	127:8 134:4 258:7	248:7 250:8 251:1	257:16 263:11
36:12	NTP	276:3	252:12 254:13	272:11
nonpatent	7:6 218:16,18	objection	256:5,15 262:3	okay
181:7 190:17,20	219:2 255:5	22:6 23:10,22 36:2	264:24 265:13	11:10,20 13:1
191:20 192:9,19	number	38:5,24 39:10,22	266:16 268:17	21:16 24:13 27:6
192:21 193:7	5:9,12,15 6:2 7:2	42:11 44:6 55:22	270:4 271:8	28:16 29:5 30:12
196:24 197:20	8:2 9:2 21:21	60:4 62:22 63:23	objectively	30:13 33:16 38:22
198:3,18 199:10	22:9 23:2,24	64:20 66:23 68:7	129:18	40:2 47:7 49:10
200:1 205:23	26:15 29:10 53:11	68:13 69:16 72:6	obtained	50:15 57:3 64:8
nonusers	54:5,9,13 73:18	73:12 74:8 75:11	247:6,6	67:8 70:4 76:18
203:22	89:13,14 90:21	78:16 79:8,22	obviously	83:16 84:7,10
normal	122:4 126:3 150:5	80:7 83:1,12,20	21:8 24:1 34:5	95:7 104:22 105:4
268:16 269:12,16	174:2 216:12	94:6 98:9 105:19	49:17 52:9 59:21	111:7,10,12
normally	226:13 240:24	119:2 125:10	82:16 90:15 95:8	113:10 117:19
131:23	241:2 242:3	128:5,22 129:20	102:22 125:1	119:15 122:2
Notary	263:20 272:6	132:8 133:10	128:13 130:17	123:11 125:17
1:24 2:22 280:4,21	numbers	139:15 142:9	139:8 190:5	127:24 130:5
notations	24:15 126:1 263:24	143:7 144:22	223:12 241:7,12	135:7 139:17,20
85:4	numerical	146:22 151:24	253:11 258:15	139:23 144:8
note	170:14	155:7,17 156:9	263:24 276:19	145:12 147:5,20
120:8 149:22	numerous		occur	149:22 155:4
162:18	228:17		121:19 130:24	159:18,20 168:18

168:20 179:12,23	192:22 193:1	247:13 273:3	owner	pandemic
188:14 195:22	196:7 204:15	12:14	24:1 88:18	
196:12 201:23	210:6 218:6,13	oxide	panel	
204:7,10 208:21	219:4,13,13 224:2	42:6,9 52:19	213:18	
210:15 221:4,10	224:21 225:21,23	58:12 207:20	Paoletti	
222:13,17 224:10	226:5 228:9,21	outstanding	69:7	
227:23 230:19,21	229:24 230:13,16	32:17,19	paper	
231:14 238:17	230:20,22 234:2	ovarian	85:21 124:9 126:10	
239:21 241:24	234:12 235:24	6:16 7:9,15 8:15,19	126:11 127:20	
242:2,5,14,20,21	237:4 260:18,19	8:23 9:4 52:6	181:24 184:8	
243:3,6 245:12,18	262:17 269:24	54:24 56:6 82:18	190:11,18 192:6	
245:21 249:2,4	270:7	87:23 100:9,23	193:3,10 195:23	
250:2 254:8 263:3	opinions	101:3 105:13	204:17 207:5,11	
268:19,24 272:24	52:2 58:1 92:4	107:8 137:19	207:16,21 209:11	
273:5 275:7	97:20 98:5 101:24	155:6,10 156:24	212:19,22 214:9	
old	102:12,19 103:1	159:8,14 170:21	214:11,12,12	
20:17 91:17 215:16	103:12,19 106:12	171:23 180:20	245:23 246:1,4,6	
248:14	108:8 109:12	182:15 183:22	246:7,18 249:17	
omissions	114:9,12 115:14	184:13 185:14	251:9,12 255:22	
117:16	116:1,11 197:6	187:2,20 189:9,17	258:5 259:19	
once	204:17 206:3	192:22 199:15	261:2 262:5 263:3	
62:7,7 95:14	215:13 219:3	203:21 210:3	263:4 267:15,18	
Oncology	223:18 228:1	248:20 254:3,7	268:4 274:11,23	
8:12	opportunity	255:12,17 256:3,4	275:9	
one-on-one	118:6	258:3 259:13	papers	
212:20	opposed	261:9,21 262:1	125:22 211:1 213:9	
ones	34:14 188:6	ovaries	213:10 249:14,16	
69:6 74:15 92:2	Oral	180:8 247:19 248:5	250:17,18 252:4	
93:10 94:17,23	7:20 8:3	248:6 251:17,23	256:14	
97:15,16,17 99:9	orally	252:11 260:17	paradigms	
99:13,15,17,18	77:11	over-the-counter	127:2	
100:3 114:20	order	108:17	paragraph	
213:18 225:11	59:11 74:15 111:3	overall	16:20 53:7,11 54:4	
229:9 241:7,9	141:5 251:4	20:7 36:16 37:12	54:9 120:2,3,6	
ongoing	252:23 262:23	182:19 183:20	123:9,10,13	
36:11	269:4,8	188:2 199:12	124:17 126:1,10	
onset	organization	200:24 203:12	128:19 130:3,7	
157:15	44:15 45:2	266:22	134:17,22,23	
open	organize	overlaps	paid	
97:14	88:7	91:10	19:11 20:11 30:9	
operates	original	overpowered	32:16,17 59:10	
262:23	85:18 87:6,13 90:1	182:24	65:15 66:1 250:7	
opinion	92:7 93:9 113:6	oversight	paint	
114:16 119:17	124:4 130:15	46:9 213:7	38:23	
121:8 173:19	136:9,10,16,17,22	overweight	Palmolive	
179:5 182:23	137:7 246:9,11	80:15	221:20	

181:13 186:16	81:12,18,22 83:1	233:18 234:16	8:18 70:20,22	patients
196:13,15,17	83:12,20 84:2,10	236:6 239:10,15	73:20 75:2,21,23	8:16
198:14 199:7	86:23 89:19 94:6	239:21,24 240:19	131:23 161:3	pattern
203:17 206:12,14	94:8 95:23 98:9	241:18 243:15,23	247:17 248:3,15	132:23 134:6
206:18,19,21,24	104:6,19,22 105:1	246:22 247:20	252:2,18,21	pay
213:8,11,12,13	105:19 110:9	248:7 250:8 251:1	253:14,14 257:2	20:5,5 65:13,22
215:8,9,10 216:12	112:22 113:1,11	251:18 252:12	payment	payment
216:15,23 218:20	117:19 119:2	254:13 256:5,15	31:16 35:21 46:5,6	30:8 32:18
220:17 221:5,13	125:10 127:7,11	257:22 258:6	63:17 113:12	PCPC
222:18 223:1,22	128:5,22 129:20	260:24 262:3	114:15 137:22	215:22 216:4,5,7,9
225:13,14 231:10	131:9 132:8,20	264:24 265:13	146:13 148:18	216:11 217:8
231:11,13,15	133:10 134:3,19	266:16 268:6,17	153:4 155:21	220:18 221:22
240:5 243:22	135:5,8,12,17	270:4 271:8 275:1	171:18 177:16	peer-reviewed
244:4 245:19,20	139:15,18,23	275:7,10 276:2,9	178:9 190:12	174:12
245:22 247:21	142:9 143:7	276:22	196:21 205:1,3	pelvic
249:2,5 253:16	144:22 145:6	Parfitt's	214:21 248:16	8:14
257:5,8 267:10,13	146:22 147:16	31:22	264:22	penalty
268:5 272:20	149:24 151:24	Parkway	particularly	279:1,4
273:13 274:7,10	155:7,17 156:9,14	11:13	83:7	pending
paragraphs	156:17 158:9	Parmley	parties	32:21
51:13 124:20,20	159:10 163:22	248:19	280:12,14	Pennsylvania
218:7,14 219:20	164:14,20 165:6	part	partner	29:21,23 49:7
238:13,21 239:4	165:12 166:3,11	35:16 45:5 51:17	12:12	people
paralegal	166:21 167:10,21	75:20 108:10,11	partners	26:16,17 49:9
65:7	172:1 173:8,12	108:19 119:9	13:12 17:4 20:1,15	51:22 52:19 63:13
paralegals	174:8 175:7 176:2	122:21 123:8,9	20:22	64:9,11 67:4
65:7	176:13 177:12	125:20 126:20	partnership	73:18 74:18
parallel	178:17 179:17	127:5 130:10,12	12:14 18:6	121:19 126:21
130:24	181:20 182:7,16	133:1 141:11	parts	180:5,13 211:21
Parfitt	182:21 183:23	160:22 163:13	51:23 132:5 186:7	213:5 217:9,9
3:5 8:7 22:6 23:10	184:20 185:16	179:1 180:18	265:12,16 266:14	218:2 220:11,11
23:22 26:18 33:2	187:3,9 188:3,8	182:3 183:16	Party	221:18,19 236:18
33:7,24 34:8	188:12 189:18	185:15 194:11	221:16,21	percent
35:10 36:2 37:21	190:21 191:21	205:21 207:11,16	passage	15:6 18:11,13,20
38:5,24 39:10,22	192:23 193:21	208:9 210:9 220:2	253:22	18:24 20:1 21:23
40:1,3,6,10 41:17	196:4 197:2,22	220:2 221:3	patent	22:1,10,15 36:15
42:2,11 43:17,21	198:22 200:4	254:24 274:18	180:5 181:7 182:8	36:17 37:11
44:6,19 48:12	201:9,14 202:17	275:19	182:8,17 183:18	percentage
55:22 58:5 59:19	202:20 204:12,23	participated	186:11 190:17	15:4 18:8 19:15,18
60:4 62:22 63:23	206:1,7,19 207:13	40:23 77:8 93:14	196:18,21,23	24:4,6 37:5,8
64:3,20 66:23	208:1,5,16 209:12	93:15 137:10	197:19 198:2	174:1
67:16 68:7,13	210:22 218:10	particle	199:9,24 205:23	perform
69:16 72:6 73:12	219:16,21 221:1	253:3,4	pathogenesis	92:21 225:17
74:8 75:11 76:15	223:23 226:9	particle-like	254:7 265:8	performing
76:20 78:16 79:8	227:4 229:1,4	154:1	pathologist	175:17 256:18
79:22 80:7,16,22	230:4,17 232:13	particles	256:8	perineal

7:14 9:3 170:22 171:24 203:21 209:20 210:3 perineum 247:18 248:4,12 251:16,23 period 5:11,14 13:5 39:21 40:18 42:1 44:16 45:3 56:22 60:13 62:8 63:18 180:22 perjury 279:1,5 permanent 17:7,7 peroxide 271:2 person 12:16 14:1 17:9 75:7,7 91:9 117:7 217:18 254:7 personal 172:23 196:1 220:10 personally 19:16 21:4 66:8 94:5 213:5 pertain 51:6 273:16 pertains 81:9 pertinent 259:21 260:3,13 pesticide 37:20 39:8,16 53:17 pesticides 53:17,20 phagocytes 8:19 pharmacology 13:18 PhD 1:18 2:11 5:3,17,21 5:23 6:4,7,13 7:21 8:4 10:3 13:17	279:19 Philadelphia 49:7 phone 59:20 77:13 phrase 122:1 140:9 146:8 217:3 physical 82:12 132:12,18,19 133:9,16,22 152:14,15 physically 94:13 97:9 133:13 physiology 263:12 269:16 271:14 picked 65:20 piece 125:3 205:10 209:5 209:7 246:2 248:24 pieces 114:24 117:5,12 211:5 place 105:2 171:5 places 172:23 plaintiff 3:3,14 62:10 81:14 plaintiff's 8:8 52:21 64:17 66:9 89:9 95:18 163:2 243:11 276:23 plaintiffs 1:12 3:3,14 28:18 46:11 65:9 66:22 68:4,5 72:5 78:9 78:10,14 79:1,5 79:20 80:4,14 81:9 82:5 83:11 95:20 105:14,18 205:21,22,23	206:10 249:15 plan 244:16 plane 65:16 planned 48:10 55:20 75:8 plant 35:2,4 plate-like 131:24 platform 75:6 platy 131:17 253:3 plausible 157:14 pleadings 106:5 please 10:13 46:22 125:17 273:4 Plunkett 1:18 2:10 5:3,8,17 5:20,23 6:1,4,7,10 6:12,13 7:1,21 8:1 8:4 9:1 10:3,11,15 10:16 20:9 25:2 27:24 39:2,23 45:11 49:24 59:13 59:13 67:18 71:2 79:9 81:15 82:3 84:17 86:6,15 105:10 108:3 110:3 111:18 112:13 134:12,24 147:13 148:9,16 148:21 154:11 156:10 178:23 179:16 194:2 197:3 206:2 207:7 232:17 238:7,9,12 240:2 243:19 246:21 250:1 257:21 268:8 275:12 277:1	279:19 Plunkett's 97:12 117:21 119:4 plus 253:3 PO 3:18 point 33:3 34:1 41:7 75:2 100:4,16,22 102:20 103:8 116:1 117:3 118:7 124:11 126:23 128:14 141:7 152:6,7 173:14 178:2,10 181:23 188:16 196:8 203:1 204:18 222:10 233:13 235:9,16 236:15 255:9,11 266:5 268:20,20 pointed 228:7 pointing 188:20 policy 14:1,2 pooled 184:9 186:23 Pooley 69:7 pooling 180:1 Population 213:2 populations 215:4 portion 253:17 254:20 264:22 position 14:5 positive 200:20 possibility	170:10 possible 17:22 36:4 97:2 100:15 164:2,6 172:8 176:5 196:22 197:17,18 209:20 247:13 253:6 possibly 57:19 61:14 post 191:11 post-IARC 214:6 posted 59:3 poster 75:5 posters 74:12 potential 121:21 potentially 99:14 142:18 174:2 251:11 powder 1:4 7:8,14,18 8:14 8:22 70:1 76:2 77:7,24 79:20 80:4 96:6,7 106:15,24 107:9 113:20 132:14 133:13 136:1 137:13,20,22 155:22 157:20,24 158:3,3,21 159:7 160:21 166:20 167:4 171:23 173:5 182:14 183:21 184:12 185:13 187:1 189:16 192:7,20 193:5 199:14 203:21 226:8 227:3,14 228:4,23 230:2 231:12,16
--	--	---	--	--

232:1 233:1 234:14 236:2 253:11,11 263:19 powders 68:21 75:1 140:8 172:20 173:2 198:18 powered 182:5,13 PowerPoint 5:20 54:5 60:18 67:13,24 68:6,12 70:16,18 PowerPoints 67:21 practice 36:16 PRACTICES 1:5 precancerous 270:3 precise 18:21 157:22 precisely 134:20 predicate 129:24 predispositions 261:13 Premarket 169:17 premise 201:17 203:5,8 preneoplastic 255:8 prepare 54:5 67:24 prepared 67:13 71:18,23 86:9,20 89:4 102:19 195:12 244:20 preparing 27:10 32:2 68:6,12 87:11,12 89:5 96:3 246:8	prescribe 226:12 presence 234:10 263:23 present 59:12 60:14 61:8 61:12 62:14 244:15 presentation 41:21 52:1 53:8 54:4,5,8,14,17,20 54:21 55:6 59:6 60:19 67:14,22 68:6 69:15 70:9 71:15 74:24 175:3 presentations 41:4 51:1,7,12,13 54:19 55:13,19 73:19 75:9,22 127:1 presented 63:8 65:10 96:18 241:15 presenter 60:2 75:5 presenting 63:18 President 50:12 press 15:13 52:9 77:8,16 171:15 232:5,8,10 232:12 237:7 pressure 131:2 presumption 254:21 pretty 20:20 68:16 previously 76:17 122:16 139:16 primary 165:21 principle 151:6 152:22	principles 152:12 print 85:14 95:8,9 printing 280:7 printout 107:22 prior 13:4 14:13 24:19 80:5 86:2 104:4 107:18 137:11,17 144:24 192:20 252:13 254:22 255:3,7 256:2 273:14 privileged 38:18 probably 18:15,16 36:15,17 37:11 61:3,15 116:8 157:1 163:10 216:2 245:16 problem 169:24 228:18 266:11 procedure 192:8 193:6 procedures 109:16 process 32:1 154:19,20 170:7,9,23 172:6 218:16 219:1 269:4 270:1 271:16 processes 13:24 171:4 produced 15:15 93:17 95:12 239:11 product 14:12 15:21 33:21 33:22 35:21 38:23 43:23 44:4 80:6	82:23 106:24 109:19 115:21,23 120:24 122:14 123:15 129:13 133:20 159:3 160:14 169:20 172:11 173:4 174:1 175:10 176:17 226:8,17 227:3,14 228:15 230:24 233:10 234:10,15,23 235:18 236:5 237:5 products 1:4,5 13:23 14:3,15 35:19 36:5 39:9 39:15 43:5 51:9 77:7 107:9 108:17 121:2 158:22 160:17,20 164:4 166:20 167:4 171:23 172:24 173:5 227:10 228:4,23 230:2 profit 19:20 20:14 program 51:18 74:15 programs 125:23 project 16:3 25:7 44:11 projects 19:7 212:21 216:5 proof 223:4 properly 263:2 properties 120:17 133:17,22 property 19:9 34:20 Proposal 275:15 proprietary	34:4 35:13,15 37:23 38:7 39:2 39:11 40:7 43:18 protect 262:24 protection 152:23 provide 30:14 34:12 46:24 62:11,17 72:3 81:16 89:9 110:12 162:14 211:6 219:12 220:19 222:1 239:3,7 248:10 provided 24:18 29:20 33:12 44:14 45:14,19 62:13 81:23 82:4 82:8 90:2,4,11 91:1 95:6,11,17 95:20 97:7 98:8 103:13 107:17,23 111:15 112:10,16 113:7,14 115:21 142:6 154:7 169:19 175:23,24 228:9 240:6 252:13 provides 88:19 189:6 261:5 providing 68:3 72:18 209:16 210:6 province 32:20 public 1:24 2:22 26:3 40:12,13 41:23 44:18 45:1,4 60:13 61:8,23 72:24 73:6 162:24 163:1 165:4,17 212:18 230:11 235:2 280:4,21 publication
---	--	--	---	---

211:24	2:20	193:9,10 198:6	radicals	ready
publications	put	202:3,7,23 203:5	271:2	179:22,22
50:22 174:13	30:5 54:13 57:11	206:2,9 209:13	raised	real
212:18	60:23 70:21 97:8	219:7,24 223:9,9	234:9,21 236:10	272:13
publicly	97:11 107:8 129:7	224:16 231:5	rat	realize
41:14,14 68:22	135:12 139:21	237:1 238:24	255:5,11	172:24
165:5,7	168:1 171:4	247:5 248:1 251:5	Rats	realized
published	173:17 176:17	254:9 255:23	6:18	272:22 273:2,11
26:3,8,10 56:5	205:14 223:15	258:7 268:22	reach	really
122:24 123:20	228:5 241:11	questioned	247:18 248:5,5	14:20 97:19 98:15
125:7 128:14	242:3 265:11	224:5 235:8	reached	100:4 143:3
155:5 163:5,8,16	269:5	questioning	13:5 155:23 209:11	172:24 183:13
165:3 174:5,11	putting	236:24	reactive	212:6 213:24
193:12,23 194:13	122:13 168:5	questions	253:22 259:7,20	242:24 265:17
194:14,16 212:17	<hr/>	14:9 52:5 76:17	270:21 271:5,19	Realtime
226:6 229:9	Q	77:14,16 80:9	read	1:24 2:21
247:16 255:2	qualifications	100:17,21 120:21	71:16 76:3 93:3	reason
PubMed	195:20	130:18 144:23	97:15 98:6,7,17	26:2 106:23 112:15
87:20 88:1,3,4	quality	186:4 211:9,11	109:14 113:24	161:20 171:14
puff	178:4 209:4 211:21	242:20 277:1	114:2,3 116:18	178:11 205:2,3
212:19	213:7	quick	131:22 143:15,17	214:21 228:18
pull	quantification	84:19 178:15	169:13 172:22	264:13 274:16
49:17 108:22 147:1	122:4	237:20 272:13	184:6,16 185:22	reasons
153:19,21,22	quantitative	quickly	185:23 187:14	95:14 167:14
170:18 179:8	264:4,5	98:23	189:21 192:13	233:16 237:6,7
185:24 221:14	query	quite	195:11,13,15	270:14
222:15	87:22	170:1 198:10 208:4	197:8 198:13	recall
pulled	question	208:7 266:19	199:18 200:14,14	23:5,21 46:14,17
33:15 155:2	11:4 18:12,14 31:4	267:8	204:3,8 209:2	46:20 56:14 59:20
punitive	34:11 36:4,19	quotation	213:19 215:15	62:6 64:5,7 65:21
196:19	37:3 39:8 40:9,12	253:17	217:11 222:22	65:23 66:20 74:5
purchasing	41:18 44:20,22	quotations	223:5 224:4,14,23	74:18,22 88:2
80:5	54:24 55:3,7	132:17	225:2,6,7,9,12	95:19 97:1 102:3
purity	71:10 74:21 82:17	quote	226:14 233:5,9	102:9 106:19
227:18	83:16 98:16 101:4	185:1,24 254:24	246:7 271:23	108:6 113:22
purport	102:11 117:21	259:17	272:5 273:7 279:5	119:1 137:11,17
264:20	119:3,10 129:14	quote-unquote	279:7	142:15 151:17
purports	131:16 137:16	243:1 269:3	reader	155:4 176:4,6
251:22	143:3 147:21	131:21 133:7 185:9	204:2	192:11,15,17,18
purpose	149:1 156:4,23	<hr/>	reading	246:14 247:5,14
69:21	157:2 161:1	R	114:10 144:3	received
purposes	163:15 164:9		150:19 153:7	21:19 22:4,24
70:14 112:10 177:1	166:15 168:19		199:16 221:6	25:10 32:18
178:7 207:7	174:21 180:21	10:1	225:19 280:10	Recess
223:18	182:20 184:6	race	reads	105:5 148:4 178:18
Pursuant	185:8 191:18	82:13	150:12	237:22 276:13

recite	141:14,18 145:15	115:19	regulator	released
263:17	148:22 151:18		172:16	77:10
recognize	159:22 160:1	12:23 14:9 24:4,5	regulatory	releases
99:15 115:19	185:11 195:7,9	33:4 40:6 54:3	19:5,7 31:13 32:24	232:6
264:11	197:4 213:8 214:7	57:3 68:3,20	34:20 39:19 40:17	relevance
recognized	214:17 240:8	71:15 72:20 76:5	40:20 41:3,9,15	184:7
64:10,12	245:23 268:5	81:23 83:24 85:15	41:16,24 44:15	relevant
recognizes	273:15,19,20	91:12 94:1 107:13	45:1 46:9 51:8	81:10,15 92:4
151:4	274:11	108:5 117:14	77:24 127:1,5	94:18 97:19 98:16
recognizing	referenced	120:11 127:15	144:14 145:16,22	109:11 177:21
115:18 142:22	122:19,23 124:14	134:5 143:4	146:2 162:6	246:3 260:8,13
recommendations	163:6 261:9	153:16 156:10,18	163:12 164:12	269:16 270:13
170:24	references	166:16 177:10	167:4,19 170:2	reliable
record	106:18 109:2,5,22	182:17 183:20	178:5	121:14 228:12
10:14 57:17 105:8	109:23 126:3,12	188:1 190:16	rehash	reliance
147:10 148:3,7,9	161:11 267:14	197:6 219:14	260:22	94:18,21 103:1,12
148:16 178:21	referencing	227:16 238:11	relate	103:20 108:11
237:21 238:1	141:24 142:1	240:4 246:6	81:8 106:8	111:1 113:2
239:11 246:23	referred	247:15 253:21	related	162:19 213:17
276:12,16 280:9	85:21 112:17	254:3 270:19	16:15 31:13,16	239:6 241:14
recorded	132:24 142:1	271:5,24 274:22	32:11,23 39:14	242:18
191:5 280:6	153:5 158:5	regarding	43:13 46:7 57:20	relied
records	161:13 174:6	55:20 75:9 77:7	63:17 109:12	87:4 96:18 101:18
191:24 192:11	207:16	143:23 155:14	116:21 129:14	182:24 207:10
redox	referring	160:10 162:3	138:17 160:23	209:9
267:23 270:20,21	108:20 122:8,9,10	175:6 232:24	161:6 217:7	rely
270:23	124:24 132:11	Register	relates	108:8 109:7 123:20
reduced	133:12 141:15	58:22 108:5,7,15	91:21 94:2 116:1,3	165:18 258:22
280:7	144:19 145:21	122:10,15 123:24	137:13,19 141:23	relying
reduces	183:16 221:12,16	Registered	146:14 155:15	141:6 142:13
263:20	221:23 222:3,4	1:23 2:21	160:3 161:3	remaining
reducing	247:21 260:23	registration	166:20 173:4	57:5
263:24	refers	53:20	196:17 219:14	remember
redundant	16:20 253:22 258:1	regulated	228:22 248:1	23:17 26:13,15
113:14	259:19	13:8	270:20	46:6 49:14 61:11
refer	reflect	regulating	relation	64:11 66:18 71:20
71:6 122:6 126:12	32:5	167:9 169:15	151:19 189:16	149:11 213:17
186:15 220:17	reflected	regulation	246:7	214:2 223:7,7,8
222:18 249:5	29:13 89:1 101:24	164:16,19 168:7,21	relationship	240:13 255:7
250:23	102:1 161:12,18	169:7,12 170:15	35:16 37:23 180:19	272:6 274:14
reference	reflection	171:2 174:20	204:2 217:13	remembered
25:22 29:19 30:4	118:14 186:17	175:1	relative	245:7 273:20
31:10 45:23 46:22	189:23	regulations	182:5,14 280:13,14	removal
108:16 109:10	reformulated	127:23 169:1 170:3	release	231:18
123:4 126:19	101:14	170:19 176:12	171:15 232:10,12	remove
135:20 140:16	refuses	226:12	237:7	230:24

repaired	185:15,19,21	52:12 55:2,9	57:21 61:5 100:17	221:8 245:16
86:19	187:17 195:6,10	180:5,6 181:7	125:5 188:19	275:22
repeated	195:12 199:21	186:12 196:21,23	189:22 200:14	reviewed
189:8,8	204:22 206:13	196:24 197:19,20	239:16 266:1,10	27:15 87:2,4 89:11
rephrase	213:22 214:16	203:20	267:6	98:20 100:2
182:10	215:9,19 216:22	reputation	responses	107:19 114:20
report	223:19 233:7	209:2	157:13	139:3,3,4 162:17
5:22 6:3,6 7:3 9:3	244:14,23 245:19	request	responsibilities	194:5,5 231:23
11:3 14:11,19	246:8,9,12 247:10	29:16 60:7,10 63:3	33:5 122:13	232:23 237:3,3
16:20 19:2 27:3,8	247:13 249:22	90:23 91:3 97:12	responsibility	240:17 241:3
27:10,16 31:14	253:22 254:20	requested	109:12	242:17,19
32:2,3,6 58:2	257:6 272:10,11	61:16 62:4 91:2	responsive	reviewing
83:24 84:14,15,21	272:12,21 273:3,4	92:23 238:12	6:9,11 110:15	97:6 155:4 193:10
84:24 85:17,18	273:15 274:18	requesting	111:4,5 239:4	reviews
86:2,4,8,13,19,20	276:7,8,10	238:13	rest	148:1 191:2 194:9
86:21 87:6,11,13	reported	require	33:9 55:20 198:14	248:8 272:15
87:16 88:21 89:4	1:22 141:10 159:7	167:20 169:18	restate	revised
89:6,11 90:2,22	259:2 264:14	required	104:1 137:16	120:3
91:20 92:2,19,19	267:18 270:20	62:4 268:13	166:15 185:7	revisions
92:22 94:2 95:24	Reporter	requirement	result	62:17,19
96:4 97:17 98:21	1:23,24 2:21,22	129:7 173:6	160:16 180:20	Revisited
99:2,7,9 100:7,8	280:1	requires	183:9 224:16	8:11
101:6,18 102:1,2	reporting	120:16	results	Rex
102:7,9,16,21,24	255:2	research	88:13 97:4 115:6	47:5 49:5
103:18,24 104:4	reports	8:17 9:3 69:18 87:5	187:10 188:13	rid
104:15 105:11,12	14:13 52:3 78:5	87:16 88:9,20	retired	84:8
106:6,13,17	100:12 136:8,20	101:19 229:20,21	13:4 17:9,10	ride
107:14 108:8,9	137:12 142:21	247:9 268:1	retrieved	66:21 67:2
109:7,9 112:18	162:15,19 163:2,7	275:15	195:13	right
113:6 116:18	163:21 164:13	resected	Reuters	11:7 15:6 17:24
119:19,24 120:19	165:11 213:21	8:15	232:6	20:4,23 21:7 24:9
122:22 124:9,13	252:3,14	reserve	reveal	24:16 27:20 38:13
124:15,21 125:1	represent	119:11	37:22	47:23 50:20 68:23
128:16 130:4,12	25:13 27:9 30:19	respect	reveals	75:14 76:19 80:21
130:16 135:20	76:24 241:19	72:21 114:4 153:11	39:1	81:21 90:16 110:1
136:8,9,11,16,17	representation	254:19,21	revenue	110:9 111:24
136:22,23 137:3,6	80:23	respective	21:19 22:4,10,16	118:12 119:11
137:8,17 141:10	representatives	280:12	22:24 23:8	121:4 123:23
141:16,23 142:2,4	220:18 221:11,24	Respirable	review	126:24 127:10
142:8,12,17	represents	7:5	7:13 8:10 25:23	129:12 136:18
148:18,19 151:3	28:3 33:11 48:22	respond	27:13 28:11 29:17	138:5 146:7
154:17,24 165:15	49:14 110:7,23	43:22 265:10,24	89:3 97:11 113:21	148:24 149:10,15
165:18 166:2	reproduce	266:22 269:12	114:15,22 115:13	156:13,16 175:19
177:2,6 178:24	269:6	responds	116:2,20 117:4,15	190:7 194:20
179:1 183:17	reproductive	186:4	118:22,23 165:3	202:5 204:6
184:19,21 185:15	7:12 51:19,21,24	response	193:11 195:6	209:17 218:2,3

230:12 234:21,24	Robert	43:10,13,15,23	26:11 28:11 32:17	second
237:17 239:13	17:13	69:8 109:17 115:6	68:20,22 69:6,7	91:6 113:17 116:3
242:8 243:8 244:5	RoC	129:12 163:20	70:5 100:22	130:22 131:8
249:8 258:1 260:5	154:19,20 218:19	169:17 174:6	109:23 114:17	148:3 275:14
263:7 267:8	Rohl	175:14 220:20	117:10 131:10,22	276:12
268:16 271:7	69:7	222:2 225:18	138:7 144:11	Secondary
275:10	role	226:8 227:2,15,18	184:8 187:5	8:10
Rigler	260:7	227:19 228:3,23	188:17,18,18	section
76:13 141:9,16	room	230:3 234:7,8,15	196:18 198:16	50:13 130:20,20
142:7 143:6	64:11	234:20 235:8,15	199:7 203:18	134:16,20 136:11
risk	ROS	235:22 236:1,10	205:13 223:6	154:24 186:21
7:9,15 8:23 9:4	270:24 271:1	236:21 237:7	189:13 247:23	189:13 247:23
50:13 53:14,16,19	route	salaried	254:21 275:23	250:14 275:16
77:10 91:21	248:21	17:6	276:1	sections
100:10 101:3	row	salaries	scale	116:14
105:16 121:2	109:24	20:4 21:1	19:24	see
125:22 126:4,9,11	Rowlands	salary	scheduled	25:4 29:19 32:15
126:13,22 127:13	69:7	19:17,19 20:3,13	48:4,6,20	49:9,12 52:9
137:12,14,18,21	Rudenko	21:10	science	58:24 63:15 71:3
137:23 138:2	12:17,18 15:20	sale	165:16,20 201:11	81:14 85:9 87:23
139:1 144:1,15	17:18 20:11 21:11	234:13	231:5	88:22 89:7,20
145:17 147:11	Rule	SALES	scientific	100:21,24 101:19
148:11 149:4	6:3	1:5	7:7 87:15 121:14	108:12,13,24
150:14 151:11	rulemaking	samples	174:19,24 175:4	109:8 113:13
152:24 155:6,11	167:23	132:1 133:24 222:7	scientist	118:19 119:7
155:16 156:24	run	256:10	205:15 260:7	120:9 126:7
157:8,10 159:8,14	19:1,2 24:15	sat	scientists	130:10 136:2
160:2 162:3,18	RYAN	27:18	58:12 74:11,22	138:11 139:4
163:19 166:10,16	3:16	save	75:23 143:24	140:11 141:11,18
171:3,11 172:19	ryan.beattie@be...	279:8	scoring	141:21 143:17
173:21,23 174:3	3:21	saw	211:10	144:3,8,9,17
174:15 177:3,11	<hr/> S <hr/>	58:21 63:19 66:13	screening	149:24 150:10,19
182:6,14,15	S	80:4 90:12 195:5	6:20 85:20 162:21	153:7,14 160:5
184:15 187:2,19	sabbatical	saying	171:11 174:15	171:2 173:20
189:1,9,17 192:21	10:1	57:16 61:7 138:20	207:20 235:5	177:22 187:23
199:15 207:11	13:3	138:22 145:22	search	193:18 194:15
213:2,7 215:3,6	Saed	152:19 169:2	87:18 88:2,3,10,12	196:15 197:9
253:18 261:10,21	270:1	171:16 172:4	88:13 89:1 92:21	199:16 203:8
262:1 273:15	Saed's	191:5,16 194:22	95:19,21 98:2,3	204:9 205:17
274:2	271:23 272:5	198:9,10 199:22	161:15	209:3,4,18 211:13
risk'	safe	200:9,12,13 202:2	searched	212:19 220:21
120:13	122:14 169:17	203:9,11,15 222:6	87:20 96:11,19,20	221:6,7 224:3
risk-benefit	226:17,18	223:1 224:11,13	96:21 97:2	225:19 226:22,22
121:4,5 170:12	safety	233:13 237:12	searches	240:8 242:11,24
risks	16:15 42:21,21	242:23	88:5 92:24 93:6,20	244:1,3 249:17
138:9,20	says		93:21,23 94:2,4	250:15 254:1,24
			97:5 98:8	

259:5,5,15,23	sent	setting	153:18,20 252:1	sister's
262:13 272:4,16	27:2 60:11,16 72:1	109:16	261:21	19:10 36:18
273:12 274:12	239:7	settled	shows	sit
275:16		46:20	186:10 225:16	75:13 104:17 118:1
seeing	100:5 120:7,9,12	settlement	235:13,14 251:16	site
64:11 218:5 255:15	120:18 121:6,12	48:1	255:5 263:19	160:18 266:9
272:18	122:6 123:21	shape	side-by-side	sitting
Seely	124:23 125:13,21	151:8	119:7	85:5 110:21 192:15
6:19	126:18 127:15	share	signal	six
seen	128:4 132:16,22	20:10 97:10 157:10	189:8	66:9
15:12 51:22 52:8	133:1,2,6 141:19	243:17	Signed	size
72:24,24 73:5	141:20 150:12	shares	279:15	7:6 203:23 252:16
78:21 93:12 96:12	153:10 161:22	20:22	significance	252:20 253:10,12
106:5 110:8 159:6	187:8,22,23,24	sharing	186:6	sketch
163:11 174:12,14	189:4,12 190:9	19:20 20:14	significant	61:3
194:10,24 195:4	197:1 198:9,16	Sharko	184:11 185:12	skimmed
197:8 201:24	199:16,22 231:20	8:7 239:24	186:13,24 187:18	98:23
228:16 232:19,20	231:21 233:12	SHEET	199:9,14 202:15	slide
236:13 238:15,19	260:5	278:1 279:11	215:3,6 235:14	52:7 62:18 68:20
241:22,22,23	sentences	SHOOK	267:1	69:13,18 70:5,7
244:5,7,8,10	185:1	4:5	signing	70:16,18 71:1,2,6
252:2 256:9 259:7	separate	short	280:11	slides
272:2	31:3 43:11 103:9	104:20	silica	62:14 63:3 68:16
segregate	137:21 140:19	shorter	7:5 55:14 56:7	69:20 71:21 72:9
20:8 92:1	210:10	98:21 101:8,17	136:1,4,10,10	small
segregated	separated	240:16	137:13,19,22,24	61:11 184:14 266:9
25:16	131:1	show	153:4,11,13,16	smaller
selected	separately	30:1 59:2 67:14	154:20 155:6,11	253:14
56:19 57:4 78:14	106:14	87:24 94:21 111:6	155:14,15 156:6	Society
selectively	September	111:14 195:7	156:15 157:4,17	50:12 52:16 53:6
203:24	5:15	215:5 228:22	158:5,7,16,18,21	74:2
self-nominated	series	229:8 246:15	159:6	sold
56:12	53:21	251:22 253:9	silica-specific	172:12,13
self-reported	session	263:21 264:20	156:24	sole
187:1	75:5	showed	similar	12:14
SEM	sessions	49:8 89:8 171:20	13:16 69:24 70:15	Solutions
76:24	75:3	240:18	150:9,18 166:9,19	12:4,24 19:8 41:8
send	set	Shower	169:16 180:10	somebody
11:22,23 60:7,9	18:5 19:22 25:11	79:20,21 80:4,5	244:9 248:15	259:8,8 264:3
61:2,21	27:8,21 28:3 62:1	106:15,15	252:20	sooner
sending	104:4,15 105:12	showing	simpistic	235:20 237:18
62:3	106:6,13 125:8	214:5 215:2 217:6	203:10 266:21	sorry
sense	207:24 223:19	256:2 259:1 261:8	simply	11:5 12:5 20:2
16:12,13 234:3	243:9 252:7	261:24 264:8	198:7 201:17 202:7	23:19,20 53:9
235:17,19 237:14	sets	shown	Singapore	60:20 109:19
265:17	25:10 28:2	70:1 101:9 140:7	42:14	116:9 126:2 144:4

154:13,24 174:21 179:20 204:7 206:21,22 213:14 219:21 231:13 245:7,20,20 247:4 264:18 272:7,14 273:8 sort 52:10 115:24 SOT 73:15 74:1 sounds 11:15 source 160:9 sources 122:22 165:21 space 15:9 41:8 speak 28:18 53:15 55:8 59:5 61:17,21 75:7 77:11 223:11 224:18 speaker 60:24 speaking 182:16 specialize 13:23 Specialty 50:13 species 259:7,20 270:22 271:6,19 specific 64:13 77:3 82:20 90:23 99:10,12 101:23 105:13 106:7 108:12 109:10 145:2 147:6 155:10 173:16 202:24 209:13,13 218:14 219:7 224:17 225:24 226:5,13	228:5 247:21 248:10 255:24 262:19 specifically 28:18 92:24 121:6 162:11 195:24 261:2 specifications 158:20,24 specificity 117:23 119:5 specifics 63:11 79:11 specify 31:1,2 speed 18:3 spent 18:9 19:1 27:9 32:6 36:16 37:9 88:24 92:7 93:11 spoke 59:18 66:10 74:18 74:23 spoken 77:13 78:3,8 107:7 sponsoring 229:20 St 1:8 118:4 staff 217:10 standard 120:14,23,24 122:7 123:4,5,14 125:8 126:19 127:6,18 128:2,3,12 168:8 168:22 169:3,15 169:16,21 170:9 170:10,12 standards 124:5 standing 91:3 147:21 96:8,9,10	start 12:19 13:7 24:21 82:17 88:14,15 152:11 265:22 started 13:13 24:11 101:12 136:22,23 198:19 starting 213:19 221:7 starts 257:13,15 state 1:9 10:13 18:5 28:5 30:6,24 31:2 46:16 100:18 113:4 184:18 210:11 231:22 233:12 261:18,24 269:5 stated 103:6 140:14 143:24 169:5 186:9 187:16 192:12 233:17 273:22 statement 45:1 71:17,18,23 72:4,11,15,19 99:10,12 100:5 102:23 120:11 123:1 128:18 129:7,15 131:3,6 131:10 150:7 151:21 153:5,17 156:5 161:19 186:22,22 187:15 197:8,11 198:21 204:11,16 216:24 225:15 250:21 254:19 275:24 statements 80:11 114:23 153:3 155:13 160:10 170:6 states 1:1 134:23	stating 198:11 statistical 186:6 200:2 202:8 202:9 statistically 184:11 185:12 186:12,24 187:17 199:13 202:13,15 204:1 215:3,6 statistics 18:23 stayed 66:24 staying 64:23,24 stays 266:9 stenographically 280:6 step 173:20,23 248:18 stepdown 70:16 Steve 96:14,15 224:23 Steven 90:14 stewardship 14:12 stick 168:19 stop 234:6 271:20 stream 22:10 Street 2:14 3:7,17 strength 180:9 181:5 211:17 211:20 strengths 91:13 92:14 114:8 114:10 177:2 states 178:6 179:4,6,23 181:18,24 210:19	211:3 212:9 258:11 strike 56:10 79:2,4 109:3 195:5 structure 12:13 students 52:6,8 175:2 studied 252:21 259:14 studies 69:2 71:5 114:19 116:16 180:1,2,12 180:14,16,17 181:1 182:3 183:7 202:10 212:5 214:18 215:1,5,7 226:1 228:8 229:8 229:8,16,17 249:7 249:9,10 252:7,10 252:17 256:1,13 256:19 258:12,14 258:22 259:1 261:7 263:21 264:8 267:18,22 270:9 study 179:2,5,7,11,24 180:4,16,18 181:12 182:4,12 182:19 183:2,19 184:13,22,23 185:21,23 186:3,7 186:10,18 187:8 187:10 188:12 189:5,14,24 191:12,14 192:1 194:6 197:16,19 200:23 202:6 203:13 204:21 206:15,24 209:14 225:24 229:13,14 229:15 247:16 248:3,11 249:6,10 250:7 251:15,19
---	--	---	--	--

251:21,22 253:18 255:5,9,12 257:9 257:19,24 258:5 258:16,17 260:16 261:5,17,24 263:18,19 265:4,5 265:6 268:10,11 270:2 271:24 subcontractor 17:7 subcontractors 20:5 21:1 subgroup 183:17 188:7 190:16 196:20 203:19 subgroups 199:12 subject 116:11 196:18 276:19 submission 57:6 submissions 41:10 submit 163:1 submitted 44:24 45:5 60:20 163:3 submitting 175:18 subpoena 111:9 subsection 98:1 subsidiaries 37:2 substance 120:17,17 substances 154:1 263:1 subtype 105:17 subtypes 105:13	sufficient 183:9 sufficiently 182:5,13 suggest 134:10 suggesting 203:19 suggestions 62:18 Suite 2:15 3:7 11:13 summary 57:10,10 superoxide 271:1 supplemental 6:6 86:12 240:5,10 supplier 176:20 support 71:2 228:12 250:14 Supporting 8:21 supportive 99:11 100:3 supposed 128:10 226:16 sure 26:16 30:4,21 41:18,20 43:20 46:13 47:19,21,21 49:4,5 61:1 64:9 81:12,18 88:4 96:5 101:5 108:23 112:24 121:9 123:19 129:11 131:15 133:3 137:6 139:21,23 145:6 149:3 168:11 174:22 176:4 184:5 245:9 247:3 273:9 surgeries 198:20 surprise	242:7 118:19 Swann 1:11 3:3,14 8:5,9 10:21 78:4,6 82:8 82:9 83:17 205:23 210:7,11 238:4 243:13,23 244:16 244:21 245:10,13 83:19 sworn 10:5 280:5 8:11 31:13 33:15 51:24 167:9,19 170:2 262:21 263:1 266:22 267:3,4 system-wide 264:21 systemic 266:8 267:6 systems 109:16 T Taher 7:15 85:21 206:15 206:24 207:5,23 208:14 209:11 210:20 213:4 take 10:17,21 22:15 84:19 104:20,24 123:9 142:3 168:16,17 171:12 173:6,21 174:3 178:15 228:19 230:24 235:18 237:19 259:8,8 266:11 267:5 taken 90:14 171:17 217:13 231:9	279:6 172:14 talc 5:11,14 6:17,20 7:14 8:13,18 9:4 15:21 16:18 18:1 23:4,6 24:7,12,23 25:7,14 28:4 30:17 35:24 41:2 44:4 47:20 48:9 52:6 54:21 56:1,6 62:10 64:17 66:22 68:4,5,21 69:4 71:6,8,8,11 72:5 73:10,19 74:7 75:1,1,9 76:7,13 77:20 87:23 88:6 93:7 96:6,7 130:8 130:14,21,23 131:7,17,18,23 132:3,7,11,13,19 133:9,12,19,19,23 138:10 140:9,20 140:21 141:1,15 141:22 142:6,23 142:23 143:5 144:2,13,16,20,21 145:8,9,10,10,17 146:3,9,15,20,21 147:24 148:14 149:2,7,8,15 150:9,18,24 151:4 151:16,19,23 152:8,8,18 153:13 154:19 160:3,13 160:17,20,21 161:3,15 162:6,11 166:17 170:22 177:5 180:7,20 187:19 189:10 209:20 210:3 217:7 219:2,15 220:20 221:16,21 222:2,8,11 225:18 227:15 247:18,23	248:4,11,15,22 249:15 250:23 251:16,23 252:1 253:2,2,3,9 254:21 255:3,6,6 255:9 259:3 260:15,18 263:23 264:9,15,22 271:21 273:17,23 274:2,5 Talc-based 7:18 talcum 1:4 8:22 77:7,24 106:24 107:8 113:20 132:13 136:1 137:20 155:22 166:20 167:4 171:22 173:5 192:7 193:4 226:7 227:2,14 228:23 230:2 263:19 talk 27:17 52:5 53:10 60:10 63:9 66:11 73:17 74:4 99:21 120:3 125:22 126:9,10 136:9,10 140:1 141:3 157:7 162:12 167:15 170:7 172:15 178:24 181:8,9 190:2,11 200:15 200:16,17 206:14 207:2 212:2 218:3 231:5,18 233:8 251:6,9 252:18 254:6,15 255:22 258:20 263:4 talked 33:18 54:22 68:2 71:21 96:8 122:16 127:2 129:8 134:8 138:17 154:18
---	--	--	--	--

160:15 162:11	33:10 34:10,24	152:23 165:16	202:21 204:13	151:16 239:2
168:4 175:2,22	35:18 42:13 46:17	169:15 170:9	210:2 215:18,20	240:17 242:24
181:22 217:14,15	49:1 50:2 54:12	176:16 180:4	216:18,19 222:19	259:9 270:21
232:7 260:21	57:1 64:13 65:24	183:1 186:7 198:3	222:23 223:3,6,21	things
274:15	67:21 73:21 74:15	209:4 215:13,17	224:5,14,22	20:19 43:4 48:1
talking	78:22 84:20 86:17	215:20 216:20	228:16 230:5	52:9,11 56:1 59:2
38:14 46:8 103:11	96:24 98:13	217:22 218:18	232:24 233:3,4,6	73:5 74:4 82:21
105:10 123:21	102:18 108:22	219:1 228:13,14	233:9 236:15	87:4 88:8,11
125:9 126:3,6,15	110:6,16,22 111:2	229:7 237:13	237:3 244:12,13	90:21 93:2 94:21
126:16 127:16	111:3,20 120:4	274:4	244:15 270:15	94:22 101:13
132:6 133:8,24	124:2 128:12	test	271:23 272:5	111:23 112:1
134:16 145:4	135:20 140:2	51:20 76:10,13	273:7 280:9	118:19 126:8
157:19 167:3	143:9,11,12	199:23 202:13	testing	133:20 136:14
172:24 217:16,17	186:14 194:4	226:4,4,4 228:7	75:17 76:7,9 82:22	137:7 149:18
218:24 230:8	195:15,23 203:5	228:22	83:7,10,18 125:23	181:1 182:1 212:3
246:19 248:12,18	205:2,4 208:8	testified	225:17,22 227:9	212:8 215:19
252:24 255:21,21	214:3 217:23	10:5 11:14 23:3	227:16,17,18,19	226:23 232:2
262:5,6	220:4,7,11 234:1	91:10 107:11	230:9	234:5 235:3,7
talks	234:19 235:10,12	114:14	tests	239:8 240:17
117:6 122:12	237:12 244:5	testify	76:11 203:7 226:7	251:9 253:6,7
124:10 128:16	245:19 246:10	103:22 104:2,14	226:13 227:1	262:24 268:1
156:1 161:7	251:13 252:3	143:14 233:15,23	228:2,6 230:1,6	271:1 272:2
172:22 222:9	272:21	236:13 280:5	230:14	think
224:8 226:15	telling	testifying	Texas	22:20 23:7 42:22
248:22	21:14 169:6 224:21	244:16	11:13 18:7,7	44:12 49:1,2,8
task	237:15 274:20	testimonies	text	51:3 52:7 55:18
221:22	tells	80:10	263:12	64:4,14 65:7,10
tax	101:16	testimony	thank	70:15 72:7 81:6
23:14	Telofski's	5:16 23:6 26:6	12:1 33:7 34:8	87:21 94:18 96:11
taxes	225:3	44:14,17 45:14,18	67:16 76:21 86:23	96:13,19,19,20,21
23:13	TEM	47:15 48:5,7,10	147:16 179:17	97:17 99:23 100:3
Taxotere	76:24	48:20 55:24 56:11	193:21 232:13	114:14 115:16
48:21	tended	56:14 62:11 64:19	246:22 257:22	116:5,21 118:8,20
TEA	162:1	81:7,13,16 89:16	268:6 276:24	119:9 121:9
161:7	tenure	89:23 90:19 93:2	277:2,3	131:12,16 136:12
technologies	13:6	94:9 96:13,16	Thanks	141:7 142:18
14:15,22,24 15:8	term	98:4 99:16 103:6	89:19	145:1,2,24,24
15:10	38:10 98:3 100:1	103:13,14,15,17	themes	147:1 149:1
technology	120:12	103:18,23 104:3,5	216:21	158:23 161:5
15:5	terms	104:7,9,10,16	thin	171:13 174:10
Tecum	20:13 21:23 70:15	114:4,11,22	130:24	175:17 176:5
7:22 8:5	88:2 92:3 94:12	115:16 116:4	thing	177:15 180:3
tell	95:19 96:10 98:2	117:1 120:20	11:2 29:7 69:23	181:5,9,9 185:2,6
19:19 22:1,3,24	98:4 106:9,11	124:12 130:14	82:14,15 88:18	185:18,21 186:10
24:9,14,17 28:2,8	109:15 138:23	137:8 140:19	99:21 101:16	186:16 188:15,18
28:22 29:6 30:9	142:16 151:10	200:5 201:15	139:4 144:20	188:20 189:5,23

190:8,10 191:4	threw	255:3,6,16,18,22	55:4	54:15 180:7 266:7
193:15 197:23	65:23	256:2 264:22	toxic	traveled
198:1,2,8,10,11	tied	266:2,10	150:15 161:7	54:15
198:12,12 200:13	180:23	tissues	toxicants	tree
201:1 202:22	till	8:15 82:23 83:19	51:21	85:13
203:10,13 206:16	111:24	125:2,6 254:4,10	toxicity	tremolite
208:7 209:8 210:1	time	257:1	69:11 70:5 75:21	141:2
210:17 211:12	12:21,22 13:5	title	125:2,23 160:17	trial
212:2,9 213:16	14:18 18:9 19:1	85:12	160:21 161:8	30:1 45:15,20
214:23 215:15	27:8,9,17,19	titles	274:5	47:15 48:5,7,10
216:16 217:21	29:22 32:6 33:3	88:15	toxicological	48:20 55:24 57:9
218:12,13 219:23	34:1 36:15,18	today	53:21	70:1,17 90:19
220:14 221:5	37:8,12 39:21	10:16,21 21:15	toxicologist	93:1,13 96:18
224:1 225:23	40:14,18 42:1	37:17,20 38:4	13:17 227:7 270:12	99:14,16,18
226:2 228:11	44:16 45:3 56:21	48:4 92:11 101:20	toxicologists	103:14,15,18
229:3,5 231:6	61:11 62:1,8	102:18 104:17	74:3	104:6,9,10,16
232:6,21 234:4	63:18 66:6,8	111:24 118:1	toxicology	114:4,11,21
235:13 237:8,9	71:19 75:6 80:19	119:1 192:16	7:12 50:12 51:16	116:24 118:4
242:3,14,23 243:7	81:3 87:7 88:9,24	272:14,18	51:19 52:12,16	120:20 121:8
243:22 244:1	89:3 92:8 93:11	told	53:6,18 55:2,9	123:17 130:18
248:23 251:8	101:8 102:20	58:23 61:19,20	74:2 151:6 152:3	136:15 138:16
253:8 254:6,15	108:11,24 111:11	62:7 116:5 176:16	152:13 258:9	151:2 171:20
255:12,20 256:8	112:21 116:8	176:19 190:2	tract	215:20 216:18,18
257:10 258:16	139:14 154:23	204:16 210:16,18	180:5,6 186:12	217:15 223:15,17
259:16 260:4,5,10	156:15 171:12	211:12 224:2	196:23,24 197:19	233:3,6,9 239:8
261:11 262:5	173:15 180:21	231:7 236:17	197:20	241:14 242:4,8
266:18,19 267:7	190:19 192:7	239:5 274:14,15	tracts	243:5 244:15
269:14 270:6	193:6,12,14,17	tool	181:7 196:21	trials
272:1 275:2	194:5 195:11	269:14	203:20	22:1 24:11,12
thinking	196:8 204:18	top	trade	47:24 48:19 78:14
73:14	206:17 215:17	23:2 46:22 74:16	37:17 39:21	90:20 91:8 93:5
third	228:17 234:21,24	78:18 170:16	training	134:14 217:14
18:16 144:7	235:9,16,23 236:2	176:7 263:12	152:3	232:7
thought	237:14 241:4,23	272:8	transcript	tried
71:19 117:17	244:21 254:22	topic	90:9,10 279:5	113:3 214:2 252:10
130:16 149:6,7	263:15 271:22	40:17 51:19 75:20	transcripts	trigger
219:11 273:16	276:18 277:5	77:3	93:3,3	246:16
274:14 276:9	time-wise	topical	transfer	triggered
three	150:1	52:10 116:1	189:15	76:1 228:14
38:23 47:8,10	times	topics	transparency	true
61:10 64:8 249:9	107:11 141:3	55:21 56:6 94:13	178:7	103:2 104:12 106:4
252:4 275:5,19	142:24 159:2	total	transparent	132:3 210:7
threshold	244:9	30:22	212:11	250:20 279:8
152:20 155:21	tissue	touch	transplant	280:8
thresholds	151:12,13,14	52:1,4	261:20	truth
156:20	253:23,24 254:22	touched	travel	280:5

truthful	71:11 90:13 97:1	186:23 222:7	30:24	variety
223:2,5	99:21 106:1	226:12 234:14,14	unusual	29:17 35:1,20 37:2
try	130:21 131:6	Uber	29:15	various
155:20 181:13,15	132:5,7,10,17,18	67:5	35:5	
194:7 222:15	133:8,9 145:5	Ubers	vary	153:12 157:18
trying	197:13 200:2	67:3	158:5	
49:1,2,8 80:19	202:12,15 213:9	Uh-huh	varying	
81:19 84:8 96:21	213:10 218:2	31:8 46:1 54:23	16:21	Ventura
123:13 133:5	219:19 238:3	110:4	16:21	
161:2 216:19	249:7,10,14	undergo	venues	
233:11 238:14	255:13 275:5	198:17 263:22	162:9	
tubal	Tylenol	underpinning	verified	
190:19 192:8 193:5	118:18	53:19	129:1	
198:17	type	underpowered	versus	
tubes	16:10 34:12 38:6	182:23 183:5	10:22 12:14 26:9	
180:8 182:17	40:7 105:16	184:14	99:7 112:16 115:7	
183:18 190:17,20	132:10 137:18	understand	126:4 180:5 181:7	
191:19 192:9,19	151:5 155:16	10:18,20,23 15:2	183:12 198:2	
192:21 193:7	158:8 164:23	41:18 61:22	226:3	
196:18 199:24	167:23 175:20	105:24 110:17	Veterinary	
200:1 205:24	177:18 180:2	121:10 126:21	14:5	
252:11	219:13 256:12	131:13 142:20	Vickery	
Tuesday	258:5,5 267:17	143:14 166:13	1:23 2:21 280:3,21	
1:19 2:7	269:18	167:1 173:18	view	
tumor	typed	190:8 203:6 234:6	115:17 123:12	
255:3	72:16	249:13 258:11	132:6 183:10	
tumors	types	270:15 271:12	217:11,21,22	
254:17	35:1,8 47:8,10	understanding	220:5 223:5 231:2	
tumour	76:10 105:18	62:2,15 76:3 95:13	viewed	
254:23	121:1 130:21	118:9 121:2	131:24	
turn	131:7 132:7,10,18	171:21 173:3	virtual	
25:19 26:21 28:7	153:18 156:11	244:17 256:20,23	41:12 54:14,16	
28:20 30:15 31:9	170:11 172:23	265:7 279:11	77:8	
45:22 46:18,21	201:24 227:9	understood	vagina	
51:3,11 69:10	254:4,10 257:1	120:16 121:23	252:11	
70:4 71:1 113:17	typically	133:7 219:9	vague	
119:18 130:3	34:17 71:22 91:4	236:21	229:4 230:6 236:7	
153:2 159:18	98:18 221:20	unfortunately	258:7	
186:20 206:12	268:13	75:4 180:12 220:1	Valerie	
225:13 231:10	<hr/> U <hr/>	Union	1:11 3:3,14 245:13	
249:2 257:5	U.S	43:12	value	
267:10 272:20	7:19 53:20 167:3	1:1	199:11 201:6,18	
274:7 275:14	167:17 168:10,24	UNITED	203:11	volume
two	169:1,22 170:13	unsophisticated	values	194:18
13:4,7 19:21 25:10	176:21 184:10	204:1	202:1,16	volunteered
47:22 51:8 65:8	unspecified	variable	56:23	
		140:8	<hr/> W <hr/>	

wait	17:21 20:18 25:16	189:24 210:20	witness	233:20 234:17
245:1	25:17 30:7 41:23	211:4 258:11		236:8 246:24
waived	43:15 59:10 70:24	website	37:24 38:8 39:4	247:22 248:8
280:11	91:15,23 106:9	60:8 61:20 62:4	39:13,24 40:2	249:23 250:2
want	131:20,21 143:13	72:23 73:3 87:21	42:12 43:20,23	251:3 252:15
15:1 22:12 24:20	157:12 165:19	101:9 115:12	44:7 47:14 48:14	254:14 256:6,17
27:17 60:10 84:5	168:9 169:1,24	160:12 161:12,16	55:23 58:9 60:6	258:8 262:4 265:2
95:8 97:16 100:16	170:2,3 175:24	161:24 163:3	62:23 64:1,21	265:15 266:18
107:21 108:13	188:16 192:16	170:6 171:6	66:24 68:9,15	268:19 270:6
111:14 115:2,3	193:1 204:15	172:22 226:15	69:17 72:7 73:14	271:10 280:4,9,13
116:6 119:18	208:13 211:15	232:2,5,8	74:10 75:13 78:18	
120:2 123:19	216:3 219:5,13	week	79:10,15,23 80:8	witnesses
135:19 140:1	234:5 236:14	17:8 118:3	81:1 83:2,13,21	8:9 81:24 232:24
158:20 168:10	248:24 253:7	weight	84:5 86:24 89:20	236:13 243:12
178:24 179:7	260:11,11 265:11	91:21 92:3,15	94:7,10 98:11	women
192:12 202:24	265:20 266:19	114:16 116:15,16	103:23 104:3	82:16 115:22
215:8 231:4	267:7 280:15	118:14 189:7	105:21 107:12	183:17 184:10
236:23 238:2	ways	205:9 208:9	110:4,10 117:24	186:11 189:10
245:4 246:24	15:10 269:21	211:13,19 212:10	119:6 128:7,24	190:17,18 191:19
252:2 260:22	we'll	214:24 215:2	129:21 131:12	192:19 193:5
273:2,9 275:2	53:10 108:24	weighting	132:9 133:11	196:20 198:17
276:20	111:10 135:11,11	121:4,5 170:13	142:11 143:9	203:20 210:4
wanted	139:21 149:22	Welfare	146:23 147:17	255:16 256:2
13:10,10 59:12	162:12 219:24	42:17 43:2	152:2 155:9,19	259:2 260:17
61:20 121:9 137:5	we're	went	156:22 158:11	262:1
266:20,20	10:16,20 15:9,13	23:13 33:15 74:16	159:12 163:24	women's
warning	15:14 17:4 20:1	127:12 148:8	164:16,21 165:7	82:20 191:19
115:22 123:15	20:14 35:11 105:7	161:17 171:14,15	165:14 166:4,12	Woodruff
128:20 129:17	123:21 148:6	183:14 191:24	166:23 167:12,22	248:19
160:14,16 161:2	150:4 189:13	211:8 238:21	172:3 173:14	word
167:20 168:8,22	205:22 218:4	weren't	174:10 175:9	26:2 71:7,8 143:17
170:22 171:23	275:2,6	54:14 98:2	176:3,15 177:14	146:10 149:2
228:14 231:1	we've	WHMIS	179:12,19 182:22	196:14
warnings	41:12 105:10	161:7,10,14	184:2,24 185:18	words
106:24 107:8	107:19 127:15	wholistically	188:14 189:20	20:7 30:24 38:19
120:23 121:1	178:15 217:13	262:21	190:23 191:23	51:20 71:11 75:4
171:3 176:12	246:18	width	192:24 196:6	117:6 120:23
Washington	weakness	251:10	197:7,23 198:24	131:5 133:15
1:20 2:16 3:8	177:16 178:10	Wille	200:6 201:16	138:2 146:11
wasn't	211:23	96:20,22 223:2,20	202:22 204:14	149:7,15 190:1
30:3 31:1 36:21	weaknesses	Wille's	205:1 206:5,8	215:1 261:23
102:6 136:6 209:3	91:14 92:14 114:8	222:19	207:15 208:3,6,18	work
223:4	114:10 177:2,9,10	window	209:15 210:24	16:1,8,10,17 17:8
water	177:24 178:7	134:14	218:12 219:23	17:15,19,21,22
217:18	179:5,7 180:10,11	wins	224:1 226:11	19:6,9,12 21:2,12
way	181:3,19 182:1	218:24	227:6 229:3,5	22:5 24:1 25:14
				28:10 29:13 36:11

36:17 38:21 39:14	71:23 72:4,11,15	275:4	105:6	201:7,18
41:7 45:6 52:23	72:18 91:24 92:18	year	104	15,000
73:1,1 100:9	100:11 130:16	17:11 18:9,23	206:18	74:3
101:2,11 102:12	150:21 151:20	19:23 21:19,22,23	108	1519
112:4 116:17	163:20 164:11	24:7,8,16 37:12	6:9	5:12
119:23 176:18	185:23 190:9	53:15	109	154
205:13 207:17	200:8	years	231:11	7:3
216:10 218:2,2	wrong	13:4,7 38:23 39:6	10th	16
220:11 252:1	117:16 136:24	45:16 52:17 74:17	218:19	6:5 7:8 86:3 193:20
257:3 261:12	272:23	115:22 229:21	11	194:2 196:3,10
worked	wrote	231:9 236:19	6:13 111:16,18	16-2738
15:20 16:2,14,14	57:10,11 215:19	York	240:22	1:4
28:5 36:22 37:6	235:5	54:16	11:30	1606
44:7,10 63:14	Wu		148:4	5:15
128:10 130:15	213:9,10 214:2,9	Zealand	11:32	17
166:5 212:20	274:15	42:21	148:5	7:12 113:21 207:5
215:23 216:5,9	Wu's	Zelikoff	11:59	207:8,24 210:21
267:21	213:21	52:15 53:24	178:18	179
worker			110	7:8
161:9			6:11 231:13,15	18
workers	XRD		111	7:16 18:24 22:9,15
161:8	77:1		6:13	95:24 232:11,17
working			112	232:21 233:17
12:19 13:11 14:2			6:16	1825
15:9,13,14 16:4	yeah	5:10 16:20 24:22	1127	2:14 3:7
26:20 31:15,20,21	22:22 28:17,17,17	25:2,13 26:22	11:12	19
32:3,6 34:15,19	30:23 32:10,15	51:13 54:5,13	12	7:19,20 76:21
46:10 47:10	36:24 38:10 40:5	141:17 240:6	6:16 112:7,13	232:14 238:4,7
176:19 220:6	40:14 47:19 48:14	241:4,23	134:9	1938
263:2 275:20	48:17,17,17 49:4	1-10	12/18/19	124:5
works	49:13 64:8 66:4	6:15	139:19	1975
212:23	70:12,12 89:15	1.13	12:15	122:11 124:1
world	110:8,10,10,11,11	199:10	178:19	1978
59:3 127:5 146:2	116:9 117:24	1.3	1200	124:9,13
164:3	118:22 119:6	182:5,13	31:7	1980s
worldwide	124:16 134:19	1:06	13	169:13
167:15 176:23	137:2,4 144:8	237:22	6:20 51:12 147:11	1994
wouldn't	150:6 179:23	1:23	147:13 148:12	245:23
59:21 85:8 132:9	219:7 229:11	237:23	14	1998
242:2	231:22,22 238:14	10	7:3 154:9,11,16	7:6 154:18
write	238:23 239:2,9	1:15,19 2:7 5:4	1422-CC09326-03	1st
72:11 136:22	241:2 242:14	6:11 17:8 99:20	1:14	242:3,13
writing	245:4,6 247:22,22	109:22 110:3,6	147	2
72:14 85:5 136:20	249:23 255:14	134:9 240:6 241:5	6:20	5:13,18 27:22,24
written	257:13 260:24	10:35	15	
45:1 56:4 71:16,18	273:8 274:13	105:5	179:14,16 199:12	
		10:50		

33:10 51:13 53:7 141:10 243:22 245:8,15 2-3 7:6 2:00 276:13 2:02 276:14 277:5 20 8:3 21:24 27:4 36:15 37:11 76:21 238:5,9 2000 33:12 20006 1:20 2:16 3:8 2001 13:14 2006 139:4,10,13 213:18 213:20 214:14 275:22 276:7 2007 160:2,11,15 161:18 168:3 2008 274:11 2010 130:8 133:8 139:10 214:11 2012 124:12 143:23 2014 214:11 2016 45:16,20 86:24 136:9,16,24 137:1 214:12 2017 141:10 2018 5:12 6:5,8 14:19 17:3 24:24 47:12 54:19 55:13 56:4 57:24 76:20 77:5	77:18 78:1 86:4 86:13 90:16 100:8 101:2,6 106:22 134:8 160:3 276:5 276:10 2019 5:15 13:1 18:14,15 18:17 22:23 23:1 23:9,19,20,20 25:20 33:12 36:9 36:13,14 37:13,16 37:19 38:3 40:18 44:15 45:3 51:5 54:15 73:15 90:18 141:17 241:12 246:10 267:14 2019-2021 39:21 42:1 202.759.7648 3:9 2020 7:11,19 13:2 18:12 18:13,17,19,23 19:1,3,7 22:4,16 22:19 23:17,24 27:15 28:8 30:3 36:19 37:7,13 40:24 41:22 44:14 56:13 57:4,15,22 58:16 75:17 76:6 76:23 113:21 193:24 232:15 235:1 245:17 246:10 257:9,19 2021 1:19 2:7 5:18,24 6:15,22 8:6 18:9 18:17,19,22 27:7 33:13 37:8 40:18 44:16 45:3 48:4 48:10 51:5 55:20 57:15 58:1 84:14 84:21 89:8,11 90:14 101:24 105:11 146:8 160:4 166:17	260573 153:6 260709 153:6 268 8:21 27 5:13 9:3 274:24 275:9,12 270,000 22:19 275 9:3 28 130:4 280:24 29 6:8 86:13 2nd 27:3 3 3 5:16 45:9,11,13,18 47:18 50:8,10 53:11 54:9 244:1 30 5:12,14,24 18:11 18:13,20 21:23 24:24 28:8 80:14 84:14,21 135:20 196:11 300 108:15 300-335 11:13 308.874.3186 3:20 31 25:19 138:6 33 140:2 150:5 36104 3:19 37 153:2	4 4 5:19 49:21,24 50:16 58:16 125:19 126:2,3 40 98:17 40-page 98:14 41 159:19 4160 3:18 45 5:16 450 30:22 49 5:19 5 5:20 45:22 67:15 67:18,20 126:3 50 20:1 50/50 19:24 20:1,14 510(k) 46:9 52 245:20 53 199:21 245:19 55 213:19 249:3 253:16 56 186:21 5704 153:6 6 5:22 8:6 84:13,17 85:10 89:13,14
---	---	--	---

119:19 239:12,23	134:9
62	89
257:6	215:9 218:7
64108	<hr/> 9
4:8	9
65	6:9 107:22 108:3
267:11	109:4 113:18
67	126:11 154:8
5:20 89:21	240:14 242:14
69	9:07
89:21	1:19 2:8
<hr/> 7	90
7	15:6 30:11 216:12
6:3 7:11 46:21 51:4	218:8,20
86:3,6 193:23	91
240:5 241:1,2	220:17 221:5
700	96
2:15 3:7	225:14
72	98
178:24	15:6
740.1	99
122:9 123:10,22	199:11
169:4	
75	
206:13,19,21,22	
213:15 272:20	
273:13 274:8	
77077	
11:13	
<hr/> 8	
8	
6:6 71:1,2 86:12,15	
126:9	
8.10.2021	
6:10,12	
80	
36:17	
816.474.6550	
4:9	
84	
5:22	
86	
6:3,6	
87	